THE FREEMAN

IDEAS ON LIBERTY

Nature Versus the Central Planners

The Economics of Good Intentions

The Environmental Assault on Mobility

Crime and Race

AUGUST 1995

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PERSPECTIVE

A Twentieth-Century Noah?

If Noah had lived in the twentieth century, the ark would never have been built.

We read in the biblical account that Noah was commanded to "make thee an ark of gopher wood." And although he lacked the modern technology, skilled craftsmen, and abundant choice of materials that we possess in this century, Noah was able to build his. But there are too many things that Noah would have to contend with in the twentieth century that would prohibit him from building an ark.

First, Noah would have a problem with his employees. If Noah sought to hire some workers to help him in the ark's construction, he would have to exercise affirmative action policies in hiring to maintain "diversity" in the workplace. Once a crew was selected, Noah would have to pay at least the minimum wage and be careful not to work his employees over 40 hours a week, lest he be required to pay overtime. He would probably like to pay his craftsmen well above the minimum wage, but since he would be forced to pay workers' compensation insurance, Social Security taxes, and unemployment insurance on each employee, the actual cost would be too prohibitive. An accountant would then have to be hired to make sure the proper taxes were withheld from each paycheck and timely deposits made. In spite of the high cost, additional employees would have to be hired to cover for those who were temporarily off due to the Family Leave Act.

The next obstacle to overcome in building the ark would be the mass of government regulations that Noah would have to comply with. First he would need an OSHA inspection of his workplace. If his place of business were approved, an inspection by the local fire department would then be in order. When Noah actually got around to building the ark, he would first have to obtain a building permit. But before this could be done, he would have to check zoning laws to ascertain that having an ark on one's property is not illegal.

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Inspections of the ark during all phases of construction would have to be carried out to ensure that everything was according to local building codes. The EPA would have to check the construction site to make sure it was "friendly" to the earth. Once the ark was completed, it would have to be licensed just like a boat or mobile home. This would present a problem to government bureaucrats, who would not be able to find a reference to an ark in any of their policy and procedures manuals.

During the construction of the ark, numerous special interest groups would be on hand to harass Noah.

The environmental extremists would demand that Noah stop cutting down so many trees. They would complain about the low percentage of recycled material that went into the construction of the ark.

Organized labor groups would hinder production of the ark by picketing the job site, heckling the non-union workers, and boycotting Noah's suppliers.

Since Noah was a "preacher of righteousness," he certainly would seek to relay God's message that "the wickedness of man was great in the earth." This might get him charged with "hate speech."

As the ark was nearing completion, the animals would have to be rounded up "two of every sort." At the first sight of an animal being taken aboard the ark, animal rights groups would be out in full force. They would demand that all the animals be spayed or neutered and have their shots. What these groups consider to be adequate food and water would have to be provided. The animal rights crowd would further complain that the ark could not possibly hold all those animals, even though they never bothered to measure how big the ark was.

Should Noah have lived in the twentieth century, the obstacles he would face in attempting to construct an ark would prove insurmountable. His problem? The same problem that plagues all of mankind: government, the omnipotent State. If Noah had had to contend with the government back in the twenty-fourth century B.C., he would have drowned with the rest of the world.

—LAURENCE M. VANCE

Mr. Vance is a free-lance writer and instructor at Pensacola Bible Institute in Pensacola, Florida.

Properly Limited Government Encourages Maximum Freedom

Real freedom means the least government—government conspicuous by its absence—with sufficient power only to protect life, liberty, and property from frauds, thieves, and murderers. Real freedom means the full right of ownership and to make decisions for one's self and one's family. The right to vote—while an important mechanism if properly used—should be employed sparingly by the people and by lawmaking bodies. Lawmaking activities ought to be directed, for a change, toward the removal of government interferences and restrictions already on the law books.

When government is confined to its proper, limited scope, there will be no necessity for opinion poll-takers to find out what Mr. and Mrs. America think. Each one then will decide for himself—privately, separately, individually—and the matter will concern no one else when real freedom once again exists behind its façade.

—JOHN C. SPARKS

"Behind the Façade" (1964)

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The Economics of Good Intentions

by Joe Cobb

Lawmakers often accuse one another of bad motives, or misguided proposals to help the wrong people. But anyone who runs for political office has some ideals about making the world a better place in which to work and raise a family.

The economics of good intentions can be seen all around us in every government program that calls for direct action to solve social problems. Every debate is about good intentions versus actual good or bad results. These arguments separate liberals from conservatives, Democrats from Republicans, and "compassionate" activists from their "special-interest" opponents.

Appearances vs. Reality

Good intentions have to contend with the very real economic forces of self-interest. The government can command and regulate people, but the direct use of mandates often fails because the indirect results of a free market system can have more powerful, contradictory effects. Some government policies, enacted with benevolence, just fail, or worse, they produce opposite results from the lawmakers' good intentions.

Joe Cobb is the Heritage Foundation's John M. Olin Fellow in Economics. Thomas Sowell's book, A Conflict of Visions *(1987), is highly recommended for a more detailed discussion of the ideas in this essay.*

For example, it might seem like a good idea if workers at the bottom of the wage scale could receive more income. Hence, the administration proposed to increase the minimum wage for low-income workers. But what if a law against low wages resulted in fewer jobs for low-productivity workers? Reducing tax rates on successful business investments could encourage jobs, but it might make the richest members of society better off. Would that hurt anyone, or just appear to favor the wrong people?

Economists study how a market coordinates the indirect results of many different unrelated actions and their unintended effects. Economics is not about anyone's intentions, good or bad, but about "non-intentions"—the beneficial indirect social results of everyone's self-interested, profit-seeking behavior.

Trickle-Down Economics

The *absence* of some consciously good intentions in public policy, and in a free market generally, provokes the scornful label "trickle-down economics." That slogan implies *the intention* of some government policy to make rich people wealthier so they can patronize the poor.

The contempt implied in the slogan suggests a belief that intentions, good or bad, are a necessary part of any policy, and the absence of consciously good intentions,

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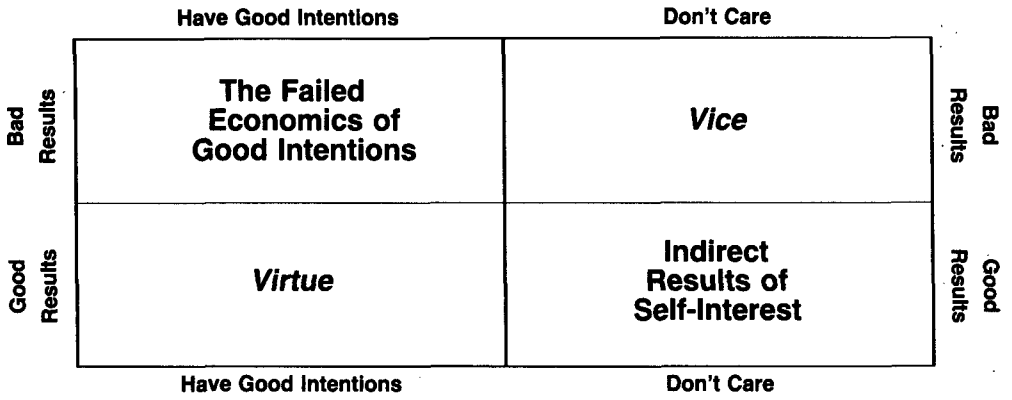

therefore, means a free market must have bad intentions.

At the same time, those who use the slogan to attack political opponents are themselves less than intellectually honest because the same term could describe any policy to make the poor richer too. People from every social class spend money on goods and services, which "trickle around" the economy and increase incomes. A simple diagram illustrates the kind of error this single-minded concern with intentions can produce. The rows are good and bad results, intersecting with good intentions or the absence of any conscious motives. Compassion with good results is obviously a virtue, and vice might come from neglecting a problem. But the policymaker who believes intentions are essential for good results is unable even to see the logical case for an indirect system such as the free market.

Ruling Indirectly

Laws and public policy that are based on our knowledge of indirect effects are among the most successful in modern society. Rules such as private property rights and formal ways to draft enforceable contracts are made for people to deal with each other without government's direct participation.

The good results of those policy rules are strictly indirect consequences. A lawsuit may go to court or the police may be called if people violate the rules, but the government's role has nothing to do with the good intentions of political leaders. Government really cannot, and should not, care what people do so long as they follow fair and equal rules.

Systematic Malpractice

Should good intentions play any role in government policy at all? No one gives an automobile mechanic credit for good intentions if your car is still not fixed. Generals aren't praised for good intentions if they lose a battle. If economics and politics were any kind of exact science, there would be no question. Good or bad results are all that anyone would look for.

The failed economics of good intentions is a kind of systematic malpractice in public policy, and it continually recurs. Its advocates fail to understand the repeated failure of their policy ideas, because they have no malevolence. Their pious style of scornfully dismissing as trickle-down economics all reforms that are not based on benevolent social engineering or political planning has prompted economist Thomas Sowell of the Hoover Institution to identify them as "the morally self-anointed."

But like generals before a battle, elected leaders have a duty to look beyond intentions and focus on producing good results. Public policy has to be based on an understanding of the non-intentions and indirect effects of economic and social behavior. □

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Nature Versus the Central Planners

by Robert A. Peterson

For the past 100 years, central planners have used the language and methods of science to explain and justify their attempts to fine-tune most of the world's advanced economies. Pointing to the successes of researchers in the hard sciences, they have led people to believe that a little inflation here or a lot of regulation there can actually fine-tune an economy—the same way a mechanic can adjust the points, set the timing, and put new spark plugs in a classic car engine.

Using the veneer of scientific language, government officials explain how in five years a deficit will be reduced, or how so many shoes or tanks will be produced, or how so much health care will be made available. Like some ancient soothsayer, the official economist looks for good omens in the economic data and tells the ruler or rulers what they want to hear. When the projected results don't materialize in democratic countries, we are told it was merely because the central planners weren't skilled enough. Just find enough Rhodes scholars, create a Brain Trust, and all will be well.

There's only one problem with this kind of thinking: the very nature of the universe makes all central planning impossible.

Man's inability to control the economy is nowhere more graphically illustrated than in our helplessness before the weather. All of life depends on agriculture, and successful harvests depend on "good" weather. No economist can predict prolonged years of cold weather, such as Europe experienced in the Middle Ages when the Baltic Sea froze over, destroying the seaborne trade of the Hanseatic League. The Japanese have kept meticulous records for over 1,000 years of when the cherry trees blossomed, but no one can predict when they will bloom next year, or if they will be killed by a late frost. No one could have predicted the destructiveness caused by the Great Blizzard of 1888, or the ravages of Hurricane Andrew (which cost over $20 billion, and destroyed some insurance companies in the process). And no amount of emergency planning by any level of government was able to hold back the Mississippi in 1993.

When forecasters do successfully predict a change in the weather, it's almost always by accident. *The Old Farmer's Almanac* got its lasting claim to fame back in 1815, when editor Robert B. Thomas was so sick in bed that, he told his assistant to "leave him alone" and "just write anything for July 13th." The assistant did just that and for that day wrote "Rain, hail, and snow." Thomas and Co. couldn't have known it, but about that same time Mt. Tambora in Indonesia was erupting, spewing millions of tons of sulfur dioxide into the stratosphere, which circled the globe, deflecting the sun's light and heat, causing the infamous "Year With-

Mr. Peterson is headmaster at the Pilgrim Academy in Egg Harbor City, New Jersey. He is the author of In His Majesty's Service *(Huntington House), a book on politics to be published in October.*

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out a Summer." Farmers wore their greatcoats in the fields, only to shake their heads in disbelief at the meager harvest. And yes, on July 13, it really did rain, hail, and snow in the Eastern United States.

The cool summer of 1992—when vast acres of Midwestern cornfields were declared federal disaster areas—was also caused by a volcanic eruption, this time from Mt. Pinatubo in the Philippines. When Pinatubo erupted, 25 million tons of sulfur dioxide were blasted into the atmosphere. The effect on America's summer economy that year was devastating. Utilities, previously thought recession-proof, saw their sales of kilowatts plunge as people and businesses used less power for air-conditioners. Sales of patio, pool, and sports equipment plummeted, and people sipped fewer soft drinks.

One government economist said that the floods in the Midwest in 1993 would have "no overall negative effect" on the economy. That, of course, is absurd: people's lives were changed forever, personal plans and fortunes were dashed, and the agricultural heartland of America was crippled.

Quantum Changes

Not only is the economy subject to the weather, but also to what might be called "quantum changes" in history. Our world has always been—and is now—subject to major changes that make tomorrow quite different from yesterday. Sometimes such quantum changes are the result of an invention. Most historians agree, for example, that those of us who live in the West might all be speaking Arabic today had it not been for the invention of the stirrup. At Tours, Charles Martel's Frankish cavalry had stirrups, while the Moors did not. As a result, the Western European forces were victorious. Other times quantum changes are brought about by a mutant virus, to which a certain population has developed no immunities. In modern times, quantum changes may come from the actions of a lone entrepreneur or group of investors. Fiber optics would still be in the research and development stage had not an upstart little company, MCI—financed by junk bonds that were marketed by the much-maligned Michael Milken—taken on AT&T. IBM would still stand astride the business world like a colossus had it not been for the ideas of kids like Steven Jobs and Bill Gates. Thousands of jobs were lost at IBM, and the company's equity was cut in half. Meanwhile, millions of people have been empowered by the ever-expanding capabilities of the affordable personal computer.

Today, the world economy is being driven not so much by raw materials, but by creative minds and the software and computer chips they produce. George Gilder has written extensively of this quantum technology both in *Forbes* and in his 1989 book, *Microcosm*. "Quantum technology devalues what the State is good at controlling: material resources, geographic ties, physical wealth," Gilder writes. "Quantum technology exalts the one domain the State can finally never reach or ever raid: mind. Thus the move from the industrial era to the quantum era takes the world from a technology of control to the dictionary of freedom. . . . We live in an epoch when desert-bound Israel can use computerized farming to supply 80% of the cut flowers in some European markets and compete in selling avocados in Florida; when barren Japan can claim to be number one in economic growth; and when tiny islands like Singapore and Hong Kong can far outproduce Argentina or Indonesia."

No one knows what the next major quantum changes will be in our world, least of all government officials. For political reasons, the State always overcommits itself to older, existing technologies and large companies who find it difficult to change and retool for the future. That is one of the great weaknesses of national industrial policy. Moreover, when the State crowds out all entrepreneurs, it leaves itself as the only institution effectively planning for the future. If it plans for seven fat years but gets seven lean ones instead, the entire society suffers. That is why the old Soviet Union had "bad weather" for 70 years.

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In a free society, however, thousands of entrepreneurs and millions of consumers make their own individual plans for the future. Some are cautious and save their cash; others are courageous risk-takers and expand their businesses and services. Those who correctly gauge future conditions will be successful; those who fail will have to go to work for others.

The unpredictability of the weather and the possibility of quantum changes make it impossible for the State to control our economy or predict future needs. For most of this century, the state capitalists of the Communist world almost always guessed wrong, and were then bailed out by those entrepreneurs in the West who correctly anticipated future conditions.

But there's one more factor that is perhaps the most complex of all. In his seminars at New York University and in *Human Action*, Ludwig von Mises demonstrated that an economy's performance is based on the decisions of millions of people, not just in one place but all over the world. These millions of people make economic decisions, based on their own wants, needs, hopes, prejudices, and world-views. Sometimes they act in groups, often they act alone. In America, we put diamonds on a woman's hand; in India, they sew them into their clothing as their currency of last resort and pass them down through their families. In the West, experts have pronounced the death sentence on gold, time and again, for nearly a century. Yet in the Far East, economic growth is creating a demand for gold unlike anything seen for a generation. Individual Chinese want gold for the security and prestige it brings, thus driving world gold prices higher.

Many talented people, like Mother Teresa, willingly choose fields in which they not only know they will not get rich, but may very well live in poverty and disease. Some people—we call them martyrs—give up not only their wealth but their lives for an idea or belief.

Mises waited ten years before he finally asked his sweetheart, Margit, to marry him. Both he and Margit believed that his economic works and his struggle to destroy socialism were so important that they postponed their marriage until her children were on their own. Fortunately they did finally marry and Margit became a partner in his work.

Through much of his work, Mises argued that a central authority could never successfully direct human action on a wide scale. In fact, Mises pointed out, government intervention almost always results in the exact opposite of what policymakers are trying to achieve. A recent case illustrates Mises' point. When, toward the end of the Bush administration, the Federal Reserve lowered interest rates to try to stimulate the economy, people who depended on interest for income (now 15 percent of the American population, and growing) lost much of their purchasing power. Here's another case: In the 1960s, the United States embarked on a program called the "Great Society" to wipe out poverty. Today, millions of Americans linger in poverty because those welfare programs encouraged the breakup of the family economic unit.

For centuries, philosophers and poets have written about the unpredictability of life. Modern liberals might say that that is precisely why we need central planning—to give us security from the slings and arrows of outrageous fortune, as Shakespeare put it. But as history has shown, the only guarantee the State can provide is one of shared misery and poverty. If society is poor, it cannot generate enough wealth to take care of the elderly. When medical care is scarce, there's no security against the simplest of diseases. It was modern capitalism that gave us penicillin, the polio vaccine, the concept of retirement, and so many other blessings that most people take for granted.

In the end, as a modern Robert Burns might say, the "best laid schemes of mice and governments oft go astray." That's why the best that we can do is allow millions of people to make their own plans for the future. It is simply not in the nature of things for central planning to work. □

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Environmental Law Endangers Property Rights

by Sigfredo A. Cabrera

"The moment that idea is admitted into society that property is not as sacred as the Laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence."

—JOHN ADAMS

According to Black's Law Dictionary, the term *property* "embraces everything which is or may be the subject of ownership." It is the "unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with it." By definition, the term does not just apply to lumber companies, builders, ranchers, and farmers. If you own a home or business, you are a property owner. If you own a car, stocks, bonds, or an IRA, you are a property owner.

The Most Fundamental Right

It is often overlooked (or perhaps ignored) that private property rights are included as civil rights guaranteed by the United States Constitution. The Fifth Amendment declares that "no person shall be . . . deprived of life, liberty or *property* without due process of law. . . ." That Amendment further states, "nor shall *private property* be taken for public use, without just compensation." And in the Fourteenth Amendment, local officials are forewarned, "nor shall any state deprive any person of life, liberty, or *property.*"

Writing for the majority in last year's landmark ruling in *Dolan v. City of Tigard,* Chief Justice William Rehnquist of the U.S. Supreme Court stated that property rights are as important a part of the Bill of Rights as freedom of speech and religion or the protection against unreasonable searches and seizures: "We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or Fourth Amendment, should be relegated to the status of a poor relation."

All other civil and political rights—the right of basic freedom, religious worship, free speech, the right to vote—are vitally dependent on the right to own private property. "Let the people have property," said Noah Webster, "and they will have power—a power that will forever be exerted to prevent the restriction of the press, the abolition of trial by jury, or the abridgement of any other privilege."

History has taught painfully what hostility toward private property rights accomplishes. The social and economic travesty caused by over 70 years of Communist control of private property in the former Soviet Union is a lesson that should neither be forgotten nor repeated. But that lesson

Mr. Cabrera is the Director of Communications for the Pacific Legal Foundation in Sacramento, California.

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has not been heeded by those writing and enforcing modern environmental laws.

A Slow, Subtle Erosion

Like rust eating away metal until it crumbles, the erosion of property rights is a very slow and subtle process that can take not just months, but years, even generations—one instance, one case at a time. And nearly always, the erosion is not apparent. It is "behind the scenes"—not evident on the evening news or in the daily newspapers, but buried in thousands of pages of documents accumulated each year around the country in the corridors of government. Indeed, this country's fourth president, James Madison, stated in 1788: "I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations."

Ocie and Carey Mills (Florida)

On May 15, 1989, 58-year-old retiree Ocie Mills and his son Carey shocked the nation by becoming one of the first people to serve jail time for violating federal wetlands regulations. Their crime? Cleaning out a drainage ditch and putting clean sand on a parcel of land where Carey Mills planned to build a home. The Millses wanted to clean out the ditch to control mosquitos and to improve drainage. Although Ocie and Carey Mills had prior approval from the Florida Department of Environmental Regulation (DER), the U.S. Army Corps of Engineers (Corps) arrested them for filling in a "wetland" without a permit.

Believing the charges to be totally unfounded, Ocie did not hire an attorney, but defended himself and his son. "The charges were so incredibly trivial," he said, "I did not take them seriously and certainly didn't think that we could be in jeopardy of going to prison."

During their trial in Federal District Court, the judge refused to allow Ocie to present evidence confirming that the Millses' maintenance of the drainage ditch was allowed under Florida law and that DER officials authorized the placement of sand on his property. The judge also refused to allow DER employees to give their opinion that the property was not a wetland as defined by the Corps' regulations. Ultimately, the two men were each sentenced to 21 months in federal prison camp, were denied eligibility for parole, were each fined $5,000, and subsequently were ordered to restore the affected site within 90 days of their release.

After serving their time, the Millses were home with their family the day before Thanksgiving, 1990. But their ordeal would not be over. In March 1991, federal officials hauled the Millses back into court on charges that they failed to comply with the probation order to restore the property. After personally examining the property, U.S. District Judge Roger Vinson sided with the Millses and ruled that the "defendants have substantially complied with the site restoration plan." In his ruling he noted that the Corps' mandated "restoration" had left the lots "totally denuded and ugly" and that further "restoration" as required by the Corps would destroy the property's value.

In the spring of 1992, the Millses went back to the U.S. District Court to erase their convictions. But constrained by the present state of the law, the reluctant and sympathetic judge upheld their convictions. In his March 1993 ruling, Judge Vinson expressed astonishment of how the federal Clean Water Act had been interpreted in a manner "worthy of Alice in Wonderland" in which "a landowner who places clean fill dirt on . . . dry land may be imprisoned for . . . discharging pollutants into the navigable waters of the United States." The Eleventh Circuit Court of Appeals in Atlanta upheld their convictions on October 27, 1994; on May 15, 1995, the U.S. Supreme Court turned down their request for review.

Tom and Doris Dodd (Oregon)

In the January 1992 issue of *The Freeman*, I told the story of the Dodds ("Dream House Turns into Nightmare"). In 1983, Tom and

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his wife, Doris, had put $33,000 of their life's savings into a 40-acre, scenic parcel in Hood River County, Oregon, overlooking beautiful Mt. Hood. A major factor in their decision to buy the lot was the prior assurances they received from local officials that building a home there was permitted. But a short time later, the zoning was changed. Under the new rules, they can use their property only for growing and harvesting lumber. A house is permitted only if absolutely necessary to accommodate a full-time forester on the property.

Twenty-two acres of the property are covered by a type of soil that will not support forest vegetation. The combined value of the land as now zoned and the estimated proceeds from harvesting the few merchantable trees from the forested area would be less than $700! Moreover, according to a forest expert, harvesting trees on the parcel would damage watershed yields, wildlife habitat, aesthetic qualities, and the protection to neighboring properties from wind.

As retirees, the Dodds have no desire to engage in the forestry business, and they certainly do not wish to be forced into a losing business venture. And so the inescapable conclusion is that unless Tom and Doris are allowed to build their house, their property is useless to them. After exhausting every possible administrative avenue and failing in the Oregon court system, the Dodds have now taken their fight into the federal court system. A ruling from the Ninth Circuit Court of Appeals is expected this year.

Lois Jemtegaard (Washington)

Mrs. Jemtegaard of Skamania County, Washington, owns a vacant 20-acre parcel that the county zoned for a single-family home. She would like to sell the parcel as a buildable lot so she would have money to repair her home, located on another parcel, that she says "is literally falling down around my ears." The proceeds would also help supplement the widow's retirement income.

The problem is that the parcel she wants to sell is considered to be a "resource" and "scenic" land under the Columbia River Gorge National Scenic Area Act. Under that federal law, the parcel may be used only for agriculture or timber operations. However, the property is not presently suitable for either of those uses.

Although Mrs. Jemtegaard holds formal title to the property, for all practical purposes she has lost any realistic use of it. Moreover, she has not received a nickel of compensation for the "taking" of her land for public benefit. Her parcel has lost its economic value as a buildable lot so long as the Columbia River Gorge Commission's decision disallowing a home remains in effect.

Hope Through Involvement

These instances of environmental regulation gone amok in America represent only the tip of an ugly iceberg whose body is submerged and invisible to most of us. Many more "silent encroachments" can be found in the legal files of Pacific Legal Foundation, a nonprofit organization defending in court the property rights of the Millses, the Dodds, Mrs. Jemtegaard, and others like them.

We are witnessing a gradual decay in the basic principle that government is supposed to *protect* private property—not to take it away, not to impede reasonable use and enjoyment of it, and not to destroy its economic value through overregulation. It is critically important that citizens stay informed and communicate their concerns to their elected representatives about proposed or existing policies that are harmful to private property rights.

Environmental laws are too often churned out with little or no regard for their costs or their consequences to human life, private property rights, and the free enterprise system. Under the federal Endangered Species Act, vast areas of land suitable for housing or other beneficial uses are being closed off to development, because of findings that the land is a current or potential habitat of

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some endangered or threatened animal, fish, or plant. Appalling as it may seem, the social, economic, or environmental benefits of proposed projects are deemed *irrelevant* by federal regulators who decide if a species should be protected. Human existence is simply disregarded in efforts to save certain species.

The Delhi Sands Flower-Loving Fly, whose lifespan is about 10 days, enjoys the same protected status as the American bald eagle, grizzly bear, and California condor. Swat this little creature and you could face a year in jail and up to $200,000 in fines! This obscure insect, which inhabits 700 scattered acres in San Bernardino County, California, now threatens to hinder needed economic development in the area. The detrimental effect of this kind of overzealous regulation is aptly illustrated in the following abstract of a report entitled, "Impacts of Mitigation for the Endangered Delhi Sands Flower-Loving Fly on the San Bernardino County Medical Center":

> The Endangered Species Act as applied to the construction of the San Bernardino County Medical Center resulted in an expenditure of $3,310,199 to mitigate for the presence of eight Delhi Sands Flower-Loving Flies. The effort as negotiated with the U.S. Fish and Wildlife Service and California Department of Fish and Game resulted in moving and redesigning the facility to provide 1.92 acres of protected habitat for eight flies believed to occupy the site. The effort mitigates only for species on site. Cost per fly amounted to $413,774.25 and resulted in a one year construction delay. This cost is equivalent to the average cost of treatment of 494 inpatients or 23,644 outpatients.

When fires swept Southern California last October, the rural Winchester area of south Riverside County was hit particularly hard. Over 25,000 acres were charred and 29 homes destroyed. Many burned-out families in that area believe they could have saved their homes if only government officials had given them permission to create firebreaks around them. Brush fires can be kept away from homes by clearing out a strip of vegetation—a process called disking. Many of the victims of the Winchester fire have disked their property for years. But a few years ago officials from the U.S. Fish and Wildlife Service dissuaded them because doing so would disturb the burrows of the Stephens Kangaroo Rat, a rodent put on the federal endangered species list in 1988.

The Endangered Species Act either bans or strictly limits development on most of the 77,000 acres designated as "rat study" areas in Riverside County. Yshmael Garcia, a rancher who lost his home in the blaze, was quoted in the *Los Angeles Times:* "My home was destroyed by a bunch of bureaucrats in suits and so-called environmentalists who say animals are more important than people. I'm now homeless, and it all began with a little rat."

Private Property Rights Advocacy

There is no shortage in this country of organizations dedicated to representing the interests of various species of animals or plants. Unfortunately, in courtroom battles involving land use and environmental protection, the interests of mainstream Americans are typically *under-represented.*

Every intrusive land-use or environmental regulation that is upheld in court results in the creation of a legal principle that acts like a building block upon which another antiproperty legal principle can be erected in yet another case. Years of bad precedent inevitably will result in a frail social and economic fabric that will not hold up to the wear of tyranny. That is why Americans must begin to stop the legal erosion of property rights, and restore this bulwark of our personal liberties. □

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THE FREEMAN
IDEAS ON LIBERTY

The Environmental Assault on Mobility

by John Semmens

I recently had the opportunity to attend a Federal Highway Administration workshop on air-quality analysis. This session was designed to train government bureaucrats to operate computer models for assessing a region's compliance with federal air pollution regulations. The experience was most enlightening.

Air-quality planning across the nation is heavily dependent on air-quality "models." Unfortunately, these models are insufficiently connected to reality to be reliable measures of actual air pollution in any metropolitan area. In the models, emission estimates for vehicles are based on a "standard trip" from a 1969 Los Angeles survey. Whether such a "trip" would be representative of the types of trips taken in other urban centers across America seems dubious. Whether the conditions pertaining in 1969 are relevant for today, some 25 years later, is also questionable. The specific amounts of emissions for each vehicle are based on a sample of cars taken in Indiana. Whether emissions for these types of vehicles might differ in the traffic and climatic conditions in other locations would seem a pertinent question, too.

Unfortunately, the federal bureaucrats in charge of this training session declined to address any of these questions. Even worse, an inquiry as to whether the air-quality monitoring program might be improved by a greater effort to actually measure quantities of pollutants was brushed aside. Apparently, the officials in charge of the air-quality monitoring program are not interested in attempting to actually measure pollution in the ambient air, nor to identify specific sources of emissions.

Within the models, the alleged pollution reductions to be achieved by various measures are not evaluated for net impacts. That is, there is no analysis of the potential offsetting negative consequences of implementing these measures. In the case of transit, for example, adding buses to the traffic stream would have some negative effects. The slower acceleration capabilities of buses and their frequent stops during peak-hour traffic significantly impede other traffic. This causes some increased vehicle emissions. But, since the model does not explicitly calculate or adjust for this effect, we do not *know* whether increasing the frequency and distances covered by buses decreases or increases pollution. During a question and answer session at the workshop, my inquiry on this issue was greeted with the cynical response that the data could be made to show whatever we wanted it to show. If this is true, then the models are useless as a guide to environmental policy-making.

Most of the emphasis in current air quality

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planning is aimed at discouraging travel. Many environmental planners at this training session expressed a preference for making travel more inconvenient as a means of reducing trips and thereby cleaning the air. I find this approach discomforting. Mobility has a positive value to people. The ability to cover large distances in short periods of time enables people to enjoy wider employment opportunities and more access to the amenities that make for a better standard of living. Government policies that set out to reduce travel will lessen these positive benefits.

Serving customers entails selling them what they want to buy. These customers should be charged a price that covers the full cost (including externalities, like pollution) to provide this service. While we want to promote cleaner air, a policy aimed at achieving this by reducing travel makes as much sense as a business seeking to reduce shoplifting by discouraging shoppers from entering the store. While restricting people's travel opportunities may satisfy the self-righteous dictatorial proclivities of many environmental planners, it also serves to undermine the highly valued mobility that comes from a well-constructed and efficiently managed highway system.

The potential impact of many of the "politically acceptable" trip-reduction, pollution-mitigation measures (like expanding the public transit system) is pitifully small. In the Phoenix metropolitan region, for example, fewer than one percent of trips are made on public transit. Since transit trips are typically shorter than auto trips, the share of person-miles of travel for transit is even smaller. Given transit's tiny market share of total travel, expanding bus service would have a minuscule impact on pollution. A doubling of Phoenix bus service would cost taxpayers another $30 million per year. At best, this might lure one percent of drivers out of their cars.

The meager potential of efforts to *entice* people out of their cars inspires some environmental planners to promote ideas for *forcing* people out of their cars. Mandatory no-drive days are popular among bureaucrats. So, too, are punitive parking fees. Strict land-use controls to compel people to live and work in high density zones are also viewed favorably. While these heavy-handed measures might have a greater impact on travel than subsidizing transit services, their cost, in terms of sacrificed travel benefits, is an overlooked consequence.

The good news is that we can make significant reductions in air pollution without restricting travel. Since it is likely that the worst 10 percent of the vehicles cause 50 percent of the pollution, a program to target these vehicles would appear to offer the best chance of meeting clean air goals. In this regard, mobile emissions testing is an obvious policy option. There is now a device on the market, the so-called "smog dog," designed to measure emissions from moving vehicles. This method of testing for emissions is less expensive and more effective than the scheduled annual vehicle emissions inspections commonly employed in most urban areas.

Governments seriously concerned about vehicle contributions to air pollution ought to implement this kind of technology. In 1993, the Arizona Legislature passed a law mandating a pilot test of a mobile emissions enforcement program in the Phoenix metropolitan area. This program took effect in January of 1995.

A second obvious policy option is to use pricing to clear peak-hour traffic jams. Over half the trips during the peak hour are classified as "discretionary" (i.e., non-work trips). When the explicit price of using the roads during peak hours is zero there is little incentive for people who place a low value on their time to make these discretionary trips at a different time of day. The result is a colossal waste of time and the creation of air pollution caused by rush-hour traffic tieups. This may have been excusable when we lacked the means to overcome the problem. Now, with the automatic vehicle identification technology that is available, we have the ability to charge peak-hour users a peak-hour price while offering an off-peak discount to those who use the roads during periods when traffic is light.

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Transponders no bigger than a credit card could be carried in each vehicle. These devices would be "read" by roadside computers as the vehicles passed at highway speeds. The vehicle owners would receive a monthly bill similar to the ones they currently receive for their phone service. Charges for using the roads could be varied by time and place, just as long-distance phone rates are, to encourage people to shift their demand to less busy hours. This would lower the total cost of highways by promoting more efficient use of the existing capacity, and avoid the cost of having to build more lane miles of roadway.

A more efficient use of the roadways will also benefit the environment. As time-of-day pricing more evenly spreads out the traffic, fewer gallons of fuel will be burned by vehicles stuck in traffic jams. This will directly improve air quality by reducing noxious emissions. A more efficient use of existing capacity will eliminate the "need" to further disrupt the environment by constructing more lane-miles of highway.

We don't have to give up mobility in order to have clean air. The sooner this idea gets through to the government's environmental planners, the sooner we will be on our way to improving both mobility and air quality. □

THE FREEMAN
IDEAS ON LIBERTY

Meaning Well Versus Doing Well

by Tibor R. Machan

Current politics is a source not only of much frustration, but also of some good lessons in morality.

The central problem in morality is: What counts as doing the right thing, of acting properly, in the myriad of situations of one's life? And while the question has been on the minds of human beings from time immemorial, it resurfaces with each new generation because people generally like to get their own answers, not leave it all to their elders.

Dr. Machan teaches philosophy at Auburn University, Alabama. His book Private Rights and Public Illusions *was published by Transaction Books this year.*

In our own culture, there is much discussion about who is mean-spirited, who lacks compassion, who is kinder and gentler among those vying to be political leaders. It is already a sign of trouble that so many questions of morality seem to await answers from political leaders, as if they could really serve as substitutes for our own moral sensibilities. But there is yet another, more troubling, problem with how morality is viewed in our time.

For too many people it seems that what counts most in moral character is the feelings that motivate one's conduct. If you mean well—if what you feel in your heart is

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good, decent, and caring—any actions that follow are supposed to be morally upstanding and commendable. It doesn't even matter much what actually *results* from the conduct motivated by such good feelings, "it's the thought that counts," as the saying goes.

Yet there is clearly something wrong with this idea. People may feel good for having done one thing or another from certain generous, charitable, kind, or compassionate motives; but it doesn't follow at all that the consequences will actually produce much benefit. Indeed, it is often likely that by focusing on how one feels about what one does, one loses sight of whether the action actually achieves any good at all. Furthermore, by focusing on these elevating feelings, one can run the very real risk of trying to please others instead of actually helping them.

Helpful conduct often does not square with conduct that pleases. We know this well enough in our personal relations: friends or relatives want us to do for them things that are definitely not in their best interests. Such conduct more often simply satisfies some desire, never mind whether it is actually worthy of being satisfied.

Consider young friends who want us to purchase, say, cigarettes or alcohol for them. Consider the deadbeat who would so much like another loan, or the lazy person who would like to escape all hardship and just sit around. Or consider the moments when you, too, are tempted to plead merely to have your own way, hoping that no one will critically examine the merits of your desires. Those who are unwisely generous may often fool themselves and feel moral righteousness about what they do. And they are certainly liked for this by the people whom they have "helped."

In contrast, bona fide help is much more risky. And it is demanding. One needs to learn what actually is good for the person who seeks it. And in doing so, one often upsets those whom one helps, just as doctors often displease patients with treatments or prescriptions that are unpleasant, or just as coaches displease athletes with the training they demand.

The more remote one is from those in need of help the less likely it is that research into their actual needs will be undertaken. Instead, some standard formulas will be invoked, and the gauge of success will be how much gratitude is forthcoming, not whether such gratitude is based upon their objective well-being.

Are those derided for callousness perhaps thinking more seriously than their critics about what will be most helpful to the targeted beneficiaries? Are their proposals perhaps more fruitful in the long run than those motivated by kinder and gentler feelings? And are these so-called mean-spirited policy architects perhaps more deserving of real moral credit for generosity and compassion, than those who are flooded with *feelings* of compassion and righteousness?

Since the feelings of the latter tend to come at the expense of other people's well-being, the answer should be obvious. □

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Putting Leviathan in Perspective

"The Budget Is Out Of Control!" screamed the headline. "As if its sheer size and momentum had made it untouchable," the writer declared, "nobody seems able to eliminate the waste that everybody recognizes."

That may sound like a story that describes the federal government in 1995, but it actually comes from a cover story in *Fortune* magazine of 45 years ago. Published in 1950, the article went on to state, "By any sane economics, Congress should . . . unmercifully sweat down the $42.4 billion that Mr. Truman plans to spend in the year ending July 1, 1951."

A dozen years and two presidents later, the federal budget was a few cents short of $100 billion. Today, at about $1.6 trillion dollars, the federal budget is still eight times larger than it was in 1950 *after* adjusting for inflation. Appropriations bills are commonly hundreds of pages long, in stark contrast to the very first one after the adoption of the Constitution, which was a mere 111 *words*.

Don't let these figures slip by without comprehending the magnitude of their meaning. *If the federal government were the same size today as it was in 1950, it would be spending 1/8 as much as it is—or about $200 billion.* Does anybody out there really believe that today, we are eight times better governed, eight times better off, than we were 45 years ago?

We now have a government in Washington that practices forcible redistribution of wealth on a scale unprecedented in American history, makes war on private property, sacrifices the long-run good for the short-run "fix," taxes and regulates beyond reason and then wonders why people don't work as hard or produce as much, squanders billions on things that nary a soul would willingly spend a nickel of his own money for, and uses its power of the purse to bully the very people who earned the purse in the first place.

While the Congress grapples with the need to curtail Washington's longstanding spending addiction, some partisans would have you believe that a massive, heartless bloodletting is taking place. Rarely will you see on the nightly news anything that even begins to put the gargantuan federal leviathan in perspective. If the American people were provided the information they need to fully comprehend how much government they've bought over the years, they might regard most current efforts to cut spending as rather timid. And I haven't even mentioned the phenomenal growth of *state* and *local* governments.

Economist Stephen Moore of the Cato Institute recently assembled some impressive data on the growth of government and passed it on to the Senate Budget Commit-

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tee. Government, he showed, is America's #1 growth industry.[1]

Moore advised the committee that more Americans today are employed by government than by the entire manufacturing sector of the U.S. economy. With all the money that local, state, and federal governments will spend this year, you could purchase all of the farmland in the United States, plus all of the assets of the 100 largest corporations in America. If the federal government alone were an independent economy in and of itself, it would be larger than the entire gross domestic product of every nation in the world except for Japan and Germany.

Incredibly, the $2.5 trillion that local, state, and federal governments will spend this year represents $24,000 per household in America. Adjusted for inflation, that's up from about $13,000 per household in 1960. Moore asks, "Are government services twice as good today as they were in the 1960s? It is no accident that as government has grown larger over the past four decades, there has been a steady erosion in the percentage of Americans who trust government to do the right thing. In the 1960s, roughly 60 percent of Americans said they had confidence in government 'most of the time,' while today less than 25 percent do."

The next time a brave soul in Congress suggests a spending cut, don't be afraid. The budget cutters are starting out with a government so big that even if they had their way on everything, there would still be far more government left over than we had barely two generations ago. And somehow, back in those dark days of a mere $45 billion in the federal checking account, we survived. □

1. For an earlier discussion of this topic, see Stephen Moore, "The Growth of Government in America," *The Freeman*, April 1993.

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IDEAS ON LIBERTY

The Ups and Downs of Unemployment

by Russell Madden

Anyone who has found himself without a job for an extended period of time knows the problems that can accrue from having no work. As someone who has experienced such episodes firsthand at various periods in my life, I can empathize with the ups and downs—mostly downs—which unemployment can bring.

At first, unemployment may seem like a nice change. Relief from the psychological and physical stresses that accompany many jobs can be a welcome respite. No more alarm clock jolting you to bleary-eyed awareness at too early an hour of the morning. No more scramble to shower, dress, and eat. No rush to drop off children at school or the sitter's. No "rush" hour traffic. No annoying boss, co-workers, or customers with their incessant demands and complaints. No lack of time to catch up on sports, reading, house repairs, or just relaxing.

No money . . .

That point, of course, is the wall against which such pleasantries come to a screeching halt. No money means goods and services done without. It means uncertainty and worry about the present and even more about the future. It means bills piling up and debts left unpaid amidst escalating arguments with your spouse. It means bill collectors calling on the phone or knocking at the door. It means self-doubt, anger, and depression. It means the threatened loss of all you worked so hard to earn.

With such potentially dire disruptions staring them in the eyes, it is little wonder that most individuals abhor the prospect of joblessness. In a free society, such adverse conditions provide powerful motivation to seek other employment as quickly as possible.

Of course, politicians are quite vocal in *their* opposition to unemployment, as well. Greater unemployment leads to an angry electorate and a threat to the officeholder's re-election. It leads to greater demands on governmental services such as unemployment checks, food stamps, and other forms of welfare at the very time when revenue from taxes dwindles because of fewer workers collecting paychecks. This shortfall of funds leads to diminished opportunities for politicians to create new governmental programs to expand their power, influence, and control.

Such is the situation most people hear reported in the media. For the unemployed worker, and the politician who fears his own future unemployment if he fails to please his constituents, "unemployment" becomes a reviled menace to be avoided at all costs. Many people loathe it so much they are willing to trade away the exercise of their freedoms and rights for more of that

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illusive ideal, "security." In the long run, of course, they cannot succeed. Security bought at the price of liberty leads to no security at all.

In a free market, joblessness does not represent the kind of widespread societal crisis that requires governmental intervention. Indeed, the kinds of "safety net" programs favored by so many in and out of government exacerbate the problem of occasional joblessness into a chronic condition. They not only lower the number of jobs available, but also weaken or destroy the incentives necessary to encourage individuals to work.

When I found myself unemployed after over a decade with the same employer, my life was—to say the least—disrupted. That painful period is not one I would care to repeat. Yet in retrospect, being without a job turned out to be one of the best things that ever happened to me. As Henry Hazlitt pointed out so long ago, to understand the true impact of an action, we must look not merely at the short-term results but include the long-term effects in rendering our judgments as to that action's utility or harm.

Had I been eligible for and accepted unemployment payments, I might have drifted along for a period of time while I sought out a similar job that gave me relative security but little fulfillment. As the situation stood, however, reality demanded that I expand my range of options. With plenty of time to re-think my situation, I began to look for solutions beyond the horizons to which I had grown accustomed. First I moved to another city. With no luck there, I traveled to another state. When a suitable position still eluded me, I shifted direction yet again. I chose graduate school as a way to improve and expand my skills and value in the job market.

Throughout this period, I relied upon the assistance of friends and family and worked whatever part-time jobs I could find as I inched painfully along the new road I had chosen to follow. My task was made all the more difficult by the very programs those in Washington assured me would protect me and cushion my discomfort. The wealth diverted from more worthwhile projects or wasted by governmentally imposed regulations and laws decreased the number of jobs available to me and diminished the potential salaries of those I might have obtained.

Still—no thanks to the politicians—my period of unemployment provided me with the opportunity (and the incentive) to try out new ideas and to do things I might not otherwise have done. I discovered the works of Ayn Rand. Her novels and essays led me into even wider realms as I explored the history, politics, economics, and philosophy of classical liberalism . . . a radical change in my understanding which might never have occurred had I remained secure and employed. An advanced degree provided me with an opportunity to share with my students the exciting things I learned and to change some of their thinking as well. The positive personal changes I experienced continue to open new doors for me.

No one should misconstrue my point here and believe I advocate quitting a job and waiting around to "see what happens." There are less negative ways of improving one's life. Yet if a person does find himself unemployed, one message the market is sending him is that his personal resources—his talents and skills and experience—are being utilized in an inappropriate manner. He would do well to heed that warning and look for employment in a field of endeavor better suited to his particular circumstances.

Making Choices

A person in such a situation has two choices: (1) accept the status quo and rely upon the government to provide a solution, or (2) be determined to use the time available to create new opportunities for himself. Job retraining, more education, or relocation to another city or state may offer someone greater growth than he might ever have enjoyed had he remained fully employed in his old position. Over a lifetime, periodic unemployment may actually result in his achieving greater wealth than he might otherwise have enjoyed.

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Indeed, some unemployed people decide to leave the ranks of the jobless by giving *themselves* a job, that is, by becoming entrepreneurs. Perhaps they borrow money from friends or dip into savings and start their own auto repair shop or clothing store. Perhaps they use the time during their unemployment to indulge in a favorite hobby and suddenly realize that people might actually pay for those carvings or cookies or cabinets they enjoy making so much. If successful, these individuals may move from being unemployed to being self-employed to becoming employers themselves as they continue to create wealth by fulfilling the needs and wants of their customers.

It all begins with an *idea* and the *freedom* to put that idea into practice.

If politicians are truly interested in maximizing employment, they can best do so by eliminating the restrictions that currently govern hiring and firing; by repealing laws that prevent people who want to work from doing so; by doing away with regulations and paperwork and taxes that encumber employers and employees. Only in the kind of hampered market that plagues us today can widespread, chronic unemployment become a reality. Minimum wage laws and government-sanctioned labor union practices maintain wages above market levels. Unemployment compensation and other types of welfare only strengthen the disruptions which the loss of jobs entails . . . even though all of these are usually (and erroneously) touted as being the mechanisms which have improved the lot of laborers.

Like poverty, unemployment always will be with us. Some people will not want to work no matter how extensive the want-ads are; there are those who prefer to loaf. Others value free time more than additional money and will work only long enough to pay expenses before voluntarily becoming jobless once again. A certain group of people will live with unemployment—perhaps relying upon savings or friends or relatives—until they are able to obtain the kind of position they feel most appropriate for them, whether that is defined in terms of prestige, salary, or skills demanded. People employed in seasonal occupations such as farming or construction might fit in here as would those who believe that certain jobs are "beneath" them. Others might endure unemployment because seeking a job in another location might require selling their homes and uprooting their families; accepting short-term employment elsewhere might prevent them from obtaining a more suitable long-term job closer to home.

Whatever the particular situation or reasons might be, in a free and unhampered market, unemployment—even if unpleasant—is always voluntary. There will always be lower paying jobs available or positions in other parts of the country which an individual *could* accept . . . if he were willing to do so.

The True Friends of Labor

The true friends of labor are the free market, the entrepreneurs who provide its motor, and the increases in productivity which only progress—not any government—can produce. Unemployment resulting from changes in the marketplace can open up new avenues to the future for workers and is, at worst, temporary. To deal with such unemployment, government need only allow employers and employees the freedom to decide for themselves which arrangements best suit their own particular needs. The benefits will follow in due course. However, unemployment resulting from changes caused by governmental interference can throw up roadblocks to success few individuals can overcome by themselves.

It is crucial to be able to recognize the difference between these two types of unemployment: it's the difference between freedom and slavery, between prosperity and poverty.

I know which one I choose. □

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THE FREEMAN
IDEAS ON LIBERTY

The Ethics of Rhetoric

by Felix R. Livingston

In *The Ethics of Rhetoric,* Richard Weaver identifies two criteria that define the ethical boundaries of political discourse. First, rhetoric should be grounded in sound logic with argument's "high speculation about nature" provided by clear thinking and experience. Second, rhetoric should move people toward the good when knowledge of the truth alone is inadequate for rightly affecting human action.

Judged by these standards, political discussion has become, for the most part, ignoble. During recent election campaigns, it was rare to find candidates willing to honestly examine alternatives using cause-and-effect reasoning. Vote-seeking competitors, some intentionally and others out of ignorance, obfuscated issues by praising causes while condemning effects, applauding consequences while repudiating means, and affirming ideas while denying corollaries.

When the ideal of democracy was being refined in the eighteenth century, election campaigns were viewed as events to educate the masses. A full discussion of contrary policies would enlighten even the most uninterested among us. Politicians now view educating electors as risky business. After all, the opposition's argument might be found compelling. To apply the faculty of reason requires understanding; to experience emotion does not.

Dr. Livingston is Vice President and Director of Freeman Services at the Foundation for Economic Education.

And so, it is to the emotions that appeals are now made. Campaigns are designed to inspire blind faith and affection in candidates portrayed as noble, and to stir feelings of indignation and hatred toward opponents said to be evil. This is base rhetoric because it blocks the intellectual independence and understanding of constituents; competing arguments are rejected solely because rhetoric's will is impeded "and in the last analysis it knows only its will."

Rhetoric was, in its inception, a mainstay of constitutional order. When the Greeks first wrote about it in the middle of the fifth century B.C., their manuals were used by exiles from Sicily, whose property had been confiscated by the tyrants. Following their return to Sicily after the tyrants' expulsion, they used this knowledge in courts of law to obtain restitution for their losses. As the century came to a close, a terrible truth about rhetoric was revealed in Athens: when political discourse abandons principle, the decline of a republic can be frighteningly rapid. When Pericles delivered his famous funeral oration describing the Athenian ideal and its contrast with Spartan totalitarianism, Greece was at the zenith of her material and intellectual powers. Socrates was in his forties, Sophocles was still writing, and Hippocrates was practicing medicine and teaching many others this developing science. A mere 50 years later, democracy in Athens destroyed itself when unbounded rule by the Athenian Assembly replaced the rule of law. The world's first democracy became a tyranny when unprin-

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cipled legislation forced individuals to obey the capricious will of a popular majority.

Full Circle

America's architects of freedom were deeply offended by the thought that a prince's pleasure could have the force of law. Although Americans are still repulsed by this idea, we have traveled full circle. We expelled the monarch from his palace, but we replaced him with an aggressive legislative body, whose pursuit of political ends is only periodically disrupted. We are now citizens for a day and then subjects for the intervening years that separate elections. For all practical purposes, Washington's elected elite is America's sovereign power. They possess vast legislative authority, and they establish arbitrary rules of behavior for their constituents while applying special rules to themselves. Their legislative acts neither command nor deserve respect beyond that procured by force; law has become the means by which the few exploit the many.

Many are now rejoicing about the recent "sea change" in Congress. "Good" newcomers are said to have replaced "bad" incumbents. More astute observers know that any changing of the guard in Washington is analogous to a barbarian invasion. Newly elected officials, and incumbents who have gained influence, can be found in the corridors of power displaying pride and wonderment about how to legislate benefits for themselves and their constituents. Politics is primarily a struggle to command, with the spoils going to those who are willing to say and do anything to achieve their ends.

If political rhetoric is to be a guiding light for legislative action to renew our republic, its logic must be animated by "first principles" identified by the philosophers of freedom—David Hume, John Locke, Montesquieu, and Adam Smith. Their central lesson is that the judgments of unbridled democratic majorities are as flawed as the dictates of tyrants; government can only be good if it is limited. Without a "belief in things higher than democracy," including individual liberty, the rule of law and private property, our fate is inextricably linked to that of ancient Athens. As nations move along the slippery path toward totalitarian democracy, liberty is extinguished by governments that inevitably become absolute. □

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THE FREEMAN
IDEAS ON LIBERTY

A Peek Behind the Old "Iron Curtain"

by Bettina Bien Greaves

In September–October 1994, FEE's President, Dr. Hans F. Sennholz, sent me to Eastern Europe on behalf of FEE, to meet people who were interested in the freedom philosophy, economics, and the government. Through me, FEE offered them *The Freeman* and FEE's other publications as aids in explaining the concepts of individual rights, savings, investment, and entrepreneurship to their fellow citizens.

For 45 years, the people in the countries I visited had lived behind the "Iron Curtain." They had had little or no experience with free markets and have little understanding of what it means to be individually responsible. They have become accustomed to having government make decisions for them about housing, jobs, and medical care. Since the collapse of Communism in 1989, however, they have been forced to face reality; they have come to realize that food, clothing, and shelter are not free goods, that they must be produced, earned, and competed for in world markets. As a result, the people are trying to transform their old command economies into private property orders and to integrate their activities into the world market. My trip was short; I spent very little time in any one country so I do not pretend to be an authority. Thus this report is based on limited observations and on my conversations with the people I met.

Mrs. Greaves is resident scholar at the Foundation for Economic Education.

Poland

A professor of philosophy in Poland told me he had spent nine months in a mental hospital under the pre-1989 Communist regime. Those months had been far more difficult for his family, he said, than for him. He had not been medicated or tortured, but had had time for meditation and speculation. By observing his fellow inmates and their actions, he had come to realize that the drive to cooperate and trade with others is inherent in human nature and could never be completely suppressed. This natural drive on the part of individuals to cooperate and trade offered hope to the formerly Communist nations that they could in time develop economically and re-enter the world of civilized nations.

In Poland, the Communists had confiscated property and suppressed the people through controls, regulations, and censorship. But the Communists never fully succeeded in subjugating the Church and farming. Agriculture was not completely collectivized as it was in the U.S.S.R., Romania, and Hungary. Most farms in Poland are small, lack capital, and so are unable to take advantage of modern technology, but because they are privately owned and operated, the farmers have an incentive to do their best.

One of the first forms of private enterprise to appear in the wake of the 1989 Communist pullout was the small retail shop. Many

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private shops and stalls now line the streets and pedestrian underpasses of Warsaw. I saw in Wroclaw what is in effect a modern department store, a conglomerate each department of which is operated by an independent private entrepreneur. I stayed in a small privately operated hotel, ate at a privately owned restaurant run by Vietnamese refugees, and saw a private brewery.

In expectation of the prospects for economic improvement, foreigners are beginning to invest in Poland. I talked with a Finn whose firm was producing machinery in Poland for energy production. The names of foreign companies, even of U.S. manufacturers of pet-food, appear on billboards everywhere. And I was amazed to see shops selling expensive imported perfumes. The drive to produce goods to export to pay for imports, such as the satellite TV dishes that are seen on many apartment house roofs and balconies, is forcing workers to face the discipline of the world market.

Russia

Mikhail Gorbachev's *Glasnost* (openness) permitted the peoples in the old "Iron Curtain" countries to talk more openly than before. His proposal for *Perestroika* failed to fulfill its promise of bringing about radical economic reform, but it opened the door a crack to private initiative. Alert and energetic individuals began to cooperate and trade openly with one another.

As it takes relatively little capital to start selling to consumers at the retail level, individual entrepreneurs began to bring wares to Moscow from far-off places by bus, train, and plane. At first they sold from carts on the street, then later out of small kiosks or shops. More fresh produce, much of it from far away, appeared in food markets. One fruit vendor in Moscow told me his home was more than 1,000 miles away. Small retail shops, not all strictly legal, now line Moscow's streets and pedestrian underpasses, offering everything from liquor to electronic appliances, candy, and flowers to leather jackets and running shoes. Craftsmen, some of whom try to avoid taxes, are also appearing, producing such items as wooden bed frames, chairs, and souvenirs. To avoid being completely smothered by the heritage of the old Communist government—oppressive regulations, taxes, and inflation—some of these small private enterprises are operating in the uncertain underground economy. Yet their efforts could prove to be the vanguard in the movement toward teaching individual responsibility and re-establishing free markets. In the meantime, some goods and services are more readily available, making life a little easier for city people.

In Russia, individuals are permitted to lease for 99 years small pieces of land, perhaps about one-fourth of an acre outside the city. Moscow is almost deserted weekends, as city dwellers escape their crowded apartments in the city's high-rise buildings to visit their small cottages or dachas, in the surrounding countryside and cultivate with tender loving care their little gardens. They take pride in the fruits, vegetables, and berries they grow, harvest, and preserve for winter consumption. Farming such small plots and canning the produce in tiny apartment kitchens may not be the most efficient way to feed the people in Russia's urban centers, but it has helped tremendously to alleviate transportation bottlenecks and food shortages, which still plague Russia because of 75 years of Communist rule.

Romania

Romania's tyrannical Nicolae Ceausescu suppressed the people without mercy; any criticism of his regime was strictly censored; attendance at periodic political rallies was compulsory. Ceausescu tore down the buildings in a vast area of Bucharest, the capital city, to construct a huge plaza for military parades and a gigantic palace for his personal self-aggrandizement. He razed some 7,000 villages and forcibly resettled the inhabitants into hastily constructed urban communities.

Revolutionaries ousted and executed Ceausescu in December 1989. But pro-Communists, who claimed to be anti-

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Ceauscescu revolutionaries, managed to maintain control. When in the spring of 1990, students organized a sit-in on University Square, in the hope of attaining real political reform and an independent television station, they were ruthlessly suppressed by the police. A new election is scheduled, but that is more than a year away.

The people of Bucharest, say there are more goods in the markets than under Ceausescu's regime, and that life is a little easier. The names and products of foreign companies are beginning to appear on the streets and in the shops. Yet Romania still suffers under more controls and regulations than the other countries I visited in Eastern Europe. Although some agricultural land has been turned over to farmers to operate privately, the rest, about half, remains under state control. A complicated "denationalization" scheme gave Romanians the chance to buy vouchers entitling them to buy into national industries, but little was accomplished; the voucher-owners could not choose the companies whose shares they want to buy and if they bought they could not sell. The employees of some government-operated companies were given shares in the companies in which they worked but their control was strictly limited; and again they have no right to sell, so they do not really own the company.

Bucharest, more than the other Eastern European capitals I visited, reveals the ravages wrecked by decades of Communist control. Romanians still face constant irritations, signs of neglect and misrule. Bucharest's streets are in disrepair and littered; trash collections are erratic; and the water is turned off without warning for several hours each day. If the survivors of Ceausescu's regime are to be ousted and real political reform instituted, the voters must be willing to reject the old system of government-defined security and controls.

One indication of Romania's dismal economic situation and its inhospitability to private enterprise is that it was the last country in Eastern Europe to be blessed with McDonald's "golden arches." In June 1995 the firm finally opened a new restaurant in Bucharest.

Hungary

Thousands were killed and several hundred thousand fled Hungary during its 1956 anti-Communist revolution. The U.S.S.R., out of fear of another revolution, refrained in Hungary from strictly enforcing its controls and regulations. This opened up opportunities to those who dared risk trying to go into business. Although hampered by the Communist regime until the 1989 pullout, the people had a slight, if rather uncertain, headstart toward recovery. Today its capital city, Budapest, appears quite prosperous.

However, Hungarians have been seriously burned at least twice by "runaway inflations"—in the wake of World War I and in 1956 after World War II; they no longer trust government money or banks. In a desperate effort to conserve their savings, they are fleeing paper money and looking for ways to invest in real goods. A do-it-yourself building boom has developed as individuals renovate, add on to existing homes, or construct new ones, even if they have no immediate prospects of living in them. Perhaps their children will live there some day; in the meantime their money is invested in something real.

Czech Republic

Of the cities I visited in Eastern Europe, Prague, capital of the Czech Republic, appears the most "Western." It has made considerable progress toward removing the old Communist restraints. Further economic development became easier when its eastern section, Slovakia, gained independence. Slovakia had been more nationalistic and leftist, also less developed economically than the Czech Republic. Without Slovakia to consider, the Czech Republic could proceed toward economic reform.

The Czech Republic has taken a major step toward privatizing nationalized industries. The people were permitted to buy vouchers, entitling them to buy shares in specific nationalized companies which could then be offered on the market. In this way, 50 percent of the formerly nationalized companies privatized in the first phase of

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BETTINA BIEN GREAVES

Private kiosks on a street in Moscow.

denationalization, another 30 percent during a second phase, so that 80 percent of the industries that had been government-operated are now privately owned. Still the free-market-minded Czechs with whom I spoke complain that the actions of their government officials do not match their rhetoric. The government, for political reasons, continues to hamper economic development by failing to liquidate bankrupt firms and by maintaining controls, for instance, on rents and wages, with a high minimum wage rate.

Conclusion

The people in the Eastern European countries I visited have many of the same complaints that we do in the United States. They are saddled with high taxes, burdensome controls, costly government pension schemes, and central banks that consider inflation and/or credit expansion the proper way to meet the government's expenses. It has been this country's good fortune that it was not devastated by 40 years of Communist rule. Destructive as our controls, regulations, monetary manipulation, and taxes have been, we in the United States have not endured such suffering as have the inhabitants of Eastern Europe. What the United States has that the Eastern European countries lack is an economic climate that is relatively congenial to private enterprise. People in the United States have felt relatively confident that their property would be protected. Thus, they have been willing to work, save, and invest. Many entrepreneurs have dared to innovate, experiment, and take risks in the hope of profit. As a result, we enjoy the benefit of the savings and investments of countless persons over decades. It is these accumulated savings and investments and the undertakings of many entrepreneurs that have made possible this country's technological and economic development.

The countries of Eastern Europe were devastated for decades and their wealth was confiscated by the Communist regime. Now that they are on their own and beginning to participate in world trade, they have a chance for economic recovery. It is imperative that the people come to recognize the importance of protecting private property and what it means to be individually responsible. Their governments must cut expenses until they can be covered by the taxes they collect and the money they borrow from private lenders. They must protect private property and respect private contracts; they must avoid arbitrary regulations and controls; they must shun government deficits that invite inflation; their taxes must be non-arbitrary and reasonable. In other words, governments must foster an economic climate that will attract investors and leave individuals free to pursue their natural human bent—to cooperate and trade with one another. □

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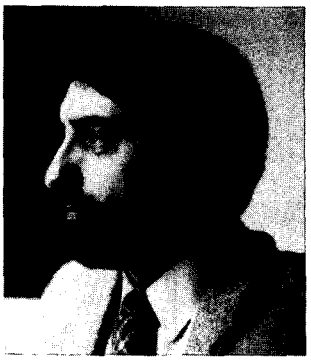

Justice or "Utility"?

The core purposes of government are well expressed in the Preamble to our Constitution: to "establish justice" and to "insure domestic tranquility."

But there's a hierarchy of importance here. By seeking justice, you will necessarily promote domestic tranquility. However, if you seek domestic tranquility alone you won't necessarily promote justice.

How, then, to address crime? Liberals emphasize prevention and rehabilitation. Conservatives, and many free marketers, emphasize deterrence and incapacitation (jail). But all share a *utilitarian* objective: to advance *future* public safety by altering the *future* behavior of the criminal. The problem is that utilitarian objectives can be sought without concern for justice.

For decades, liberals have run our legal system. Renouncing punishment as a proper response to an offender's past crimes, their prevention-and-rehabilitation approach has tried instead to alter his future conduct, for the eventual betterment of society as a whole.

This anti-punitive strategy has obliterated personal responsibility. The felon endures few negative consequences for the damage he does to others. This has led to dual outrages: the unjust neglect of victims, and excessive leniency toward their victimizers.

But under utilitarianism, leniency is not the only option. If public safety is the sole objective, why not try to suppress crime rates by executing—or jailing forever—every criminal we catch, from jaywalkers to serial killers? Instead of inordinate leniency, why not try unbridled punitivity?

Many conservatives and free marketers prefer this alternative. Their deterrence-and-incapacitation approach represents the flip side of the same utilitarian coin. It, too, aims solely to alter an offender's future conduct, for the eventual betterment of society as a whole. It, too, severs any clear causal connection between the degree of injury suffered by the innocent, and the degree of punishment imposed on the perpetrator.

Utilitarianism thus has led both the Left and Right to *injustice*: to disproportionate punishment in relation to the transgression. After all, once illegal acts are decoupled from a proportionate legal response, the only remaining argument is whether that response should be anemic or draconian.

Utilitarianism also leads both sides to *collectivism*. What counts to utilitarians, Left or Right, is not justice for individuals, but only lower crime *rates* for society in general. No longer gauged by the harm inflicted upon individual victims, punishments are instead based on arbitrary predictions of the criminal's future dangerousness to "society." In utilitarian social calculations, there is no place for the anguished human face of an individual crime

Mr. Bidinotto is a long-time contributor to Reader's Digest *and* The Freeman, *and a lecturer at FEE seminars.* Criminal Justice? The Legal System Versus Individual Responsibility, *edited by Mr. Bidinotto and published by FEE, is available at $29.95 in cloth and $19.95 in paperback.*

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Protectionism, Old and New

Protectionism, which is the policy of protecting home industries from foreign competition, has many origins. Some date back to the ways of tribal societies which generally viewed foreigners as aliens and enemies. Others are singularly American, arising from economic stagnation and dollar decline. All are the result of misinformation which is more harmful than non–information. Error is always more active than ignorance.

Every form of protectionism builds on raw political force. It takes an army of tax collectors, administrators, and border guards to protect domestic industries by levying import tariffs and other restrictions on foreign products, or by paying bounties on domestic products. Protectionism builds on the governmental power to tax one man to help the business of another. Taking money from one American and giving it to another is the source of much social and economic conflict.

Protectionism receives its political strength from advocates of political power who welcome additions to governmental power. They are supported by mainstream economists who look to government officials for full employment and economic growth. Their primary concern is national income, national spending, and national employment. They favor national planning which obviously cannot tolerate international free trade; it would upset, disrupt, and quickly undo any planning.

The staunchest allies of these politicos are labor unions to whom government protection is of crucial importance. They live by the doctrine that union members have an inherent right to a job in their particular industry, at their present location, and at rates of pay that exceed market rates. Plagued by the inability to compete and by high rates of unemployment, they argue forcefully against everything foreign.

Unemployment undoubtedly is a great social evil that concerns us all. It is an economic phenomenon of loss and waste that harms not only the jobless but also their fellow workers who are forced to support them. Alleviation of unemployment has become an important political task by which governments are judged and measured. But the problem also raises a basic question: can import restrictions increase the demand for labor and reduce unemployment? Unfortunately, they cannot, because they reduce the productivity of labor and, therefore, reduce the demand for labor. Surely, a newly protected industry gains temporarily from the reduction of competition: it can raise prices, earn higher profits, and pay higher wages. But other industries will consequently suffer from the loss of trade and the higher costs of labor. Consumers everywhere experience reduced purchasing power.

In many respects, trade barriers are similar to natural obstacles that thwart human effort and impair man's well–being. Both increase the demand for specific labor. For example, the destruction of housing by flood, earthquake, or fire increases the demand for housing supplies and construc-

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tion labor, while also reducing the demand for a myriad of other goods which the destruction victims must now forgo. Similarly, import restrictions on foreign cars may boost the demand for domestic cars, but they also reduce the demand for other goods which the restriction victims, that is, consumers must forgo.

Trade restrictions thus destroy more jobs than they can possibly create. Yet most American workers are convinced that they need such government protection. Without trade barriers, they believe, foreign products made by cheap foreign labor would flood American markets and force American workers to suffer substantial wage cuts or outright unemployment. Americans can trade with each other because they have similar income and working conditions, but they cannot trade with foreigners who work for less at lower living standards.

When carried to its logical conclusion, this wage–rate argument bars all foreign trade because no two countries are identical in labor productivity and income. It may even bar interstate commerce because wage rates differ from state to state. Wage rates in New York State are generally higher than those in Mississippi; by this argument, therefore, New Yorkers must not trade with Mississippians In actual fact, the cost of labor is merely one of many cost factors determining the competitiveness of a product.

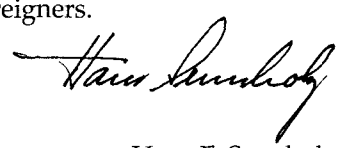
It is significant that the loudest agitation for protection is heard in those industries competing with high–cost foreign labor. The American automobile industry is competing with Japanese and German carmakers who pay considerably higher wages and fringe benefits. If the wage argument were correct, there would be few Japanese and German cars on American roads.

When the labor argument is not believable, American protectionists quickly retreat to a sixteenth–century defense: the balance–of–payments doctrine. It contends that government should promote exports to bring money into the country and stifle imports. The modern version urges legislation and regulation to restrict the use of foreign goods and encourages exports for the purpose of creating jobs in the country. Both versions, the old and the new, are spurious and erroneous.

The United States is currently experiencing chronic balance-of-payment deficits with Japan. The ordinary Japanese trade surplus runs at about $10 billion a month, of which $5–$6 billion are with the United States. They consist of dollar earnings which the Bank of Japan then promptly invests in U.S. Treasury obligations. The Bank of Japan is the world's biggest financier of U.S. deficits, both in the federal budget as well as in current trade accounts, and is the strongest supporter of the U.S. bond market. If it were not for this solid support by Japan, the world's biggest creditor country, the financial conditions of the United States, the world's largest debtor, would be rather precarious.

In many parts of the world the U.S. dollar is greatly undervalued in terms of purchasing power. The dollar buys 30 percent to 50 percent less in Japan and Germany than it does here in the United States. Yet in this age of instant communication and capital mobility, it is not purchasing–power parity that determines exchange rates but capital profitability and opportunity. U.S. balance–of–payment deficits are the result of excessive monetary ease on the part of U.S. monetary authorities, of low interest rates, of high taxes on capital and on savings, and of chronic deficit spending by the federal government. America is consuming too much while saving and investing far too little.

Protectionism makes for strange bedfellows. It brings together big business and big labor, politicians counting votes and government officials yearning for power, sixteenth–century thinkers and twentieth–century economists. It unites many petitioners for political favors and largess in a common cause against consumers and foreigners.



Hans F. Sennholz

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But you can stand by FEE which brings the light of freedom to the world.

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victim. He or she sinks into a sea of faceless, collective crime statistics.

Don't misunderstand: prevention, rehabilitation, deterrence, and incapacitation are worthwhile ancillary objectives of the criminal law. But they aren't *primary* objectives. They address only general social conditions, so that anonymous citizens of tomorrow may not turn to crime. None of them, though, need be grounded in the principle of making punishments fit past crimes. None of them need be rooted in justice.

The alternative? A legal system that aims primarily at exacting *retribution*.

Retribution means administering punishment to a criminal in proportion to how much he has hurt others. I use "retribution" to mean "reflection." The crook's basic aim is to gain by force something at the expense of someone else. His actions impose damages upon an innocent person. The fundamental goal of a strategy of moral retribution, then, *is to reflect those damages back onto the criminal himself.*

This policy is both moral and practical. Moral, because it upholds innocent human life, and the just social framework upon which individual survival and well-being depend. Practical, because a policy of reflecting proportionate losses back upon the culprit frustrates and negates his desire, which is to profit at someone else's expense. Retribution means *he won't get away with it.*

A retributive system would incorporate many of the worthy crime-reduction ambitions of the utilitarian. For example, long terms of confinement under harsh conditions, with inmates forced to work and pay restitution to victims and taxpayers, would surely deter more criminals than does our current toothless system. Being locked up would also prevent them from causing ordinary citizens more trouble, and—who knows?—possibly encourage the occasional inmate to rehabilitate himself.

But since we cannot predict their future dangerousness, a retributive system would abandon such utilitarian fads as treatment programs and "selective incapacitation." A term of confinement would be tied to the seriousness of a convict's offenses—period.

Because retribution entails punishment, it's often criticized as being motivated by a crude thirst for revenge. In fact, a retributive legal system is the antithesis of private revenge, and the basis for the rule of law.

My dictionary says "revenge" is "the carrying out of a bitter desire to injure another for a wrong done to oneself or to those who seem a part of oneself." Of course, revenge-based punishment need not be just: the injured party may retaliate disproportionately to the harm done. By contrast, "retribution" is "just or deserved punishment, often without personal motives, for some evil done."

If we're to have a just and peaceful society, the use of after-the-fact, retaliatory force cannot be left to the arbitrary whims of private victims, each employing subjective criteria of personal injury. Precisely to minimize and avoid vengeance, vindictiveness, and vendettas, and the disproportionate punishments to which they lead, a justice system must be based upon retribution, not revenge.

Retribution constitutes the premise that the level of punishment must fit the severity of the crime. This does not mean we need to punish *in kind*: the law need not literally demand "an eye for an eye," sinking to the specific tactics of the wrongdoer. But it does mean that society should punish *in proportion*: the law ought to recognize gradations of evil and injury, and respond accordingly.

In short, retribution is the only premise fully consistent with justice and individualism. With justice—because it implements *proportionality* in criminal sentencing, fitting the punishment to the crime. With individualism—because it bases punishments on actual harm done to *individuals*. Retribution does not look to society's future: it remembers the individual victim.

Our nation's Founders made it clear that they saw no clash between the moral end of justice, and the practical ends of insuring domestic tranquility. A valid conception of retribution, of "just deserts," can incorporate many of the worthy purposes advanced by utilitarians. But it can also provide those purposes the crucial moral grounding they have never had. □

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THE FREEMAN
IDEAS ON LIBERTY

Justice and Cultural Diversity

by Philip Perlmutter

Diversity and multiculturalism are increasingly heralded as desirable goals for society. It is argued that government should translate them into everyday realities—and in proportion to a group's percentage of either the local or national population, whichever is higher. For example, if a group such as women, blacks, Hispanics, Asians, American Indians, or gays are "x" percent of the national population, then that's the percentage of jobs they should have.

How government relates to individuals and groups—and vice versa—are not new problems. The framers of the Constitution and Bill of Rights grappled with them. And while none of the Founding Fathers foresaw the evolution of today's enormous and multivaried population, they knew of the dangers of a divided people, and of a government that gives special privileges to some groups, whether royal, religious, or political.

George Washington visualized an America that "gives to bigotry no sanction, to persecution no assistance," and that "requires only that they who live under its protection should demean themselves as good citizens." With equal simplicity, John Quincy Adams wrote that America "is a land, not of *privileges,* but of equal *rights"* and that *"privileges* granted to one denomination of people, can very seldom be discriminated from erosions of the rights of others."

Professor Perlmutter is author of Divided We Fall: A History of Ethnic, Religious, and Racial Prejudice in America *(Iowa State University Press).*

Such views, plus the guarantees of the Bill of Rights, formed the basis of the American ideal, though all too often not of its reality. It is the contrast between the ideal and the reality that leads to the question: what kind of governmental system best insures the greatest freedoms for individuals and groups, as well as the greatest possibilities of undoing wrongs among and between them, and with the least injury to any, and to the nation's unity?

There is ample evidence that insuring individual equal rights, with unrestricted opportunities for redressing individual and group wrongs, is more desirable than insuring group preferential rights, where redress is limited or prioritized by the victim's group affiliation and percentage of the population. Governments and elections by majorities, pluralities, or coalitions, whatever their shortcomings, are still more salutary for most people and less injurious to some than governments of proportionalized minorities.

The latter model seems theoretically fairer and more attractive because it seems to offer immediate representation and redress to some minorities. But in reality it also generates, multiplies, and perpetuates tensions and conflicts among many minorities, eventually overshadowing whatever initial progress was made, delaying solutions to existing problems, and endangering the well-being of society itself.

Also, by providing benefits to some groups on a preferential basis, a disrespect, if not contempt, for the recipients, the providers, and the law is created or re-

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inforced. And why not? Why should all members of a group be eligible for benefits that no members of other groups are? Why must there be lower standards for some groups and higher ones for others—for the same job, promotion, or entrance to college? Is there, as various racists and sexists have long claimed, something biologically, intellectually, and/or socially amiss with some groups? Or is there, as a few contemporary minority extremists claim, something biologically, intellectually, and/or socially superior in their group?

If all people are equally entitled to certain inalienable rights and opportunities, why do some insist on differential treatment in obtaining them—whether it be via quotas, goals and timetables, and set-asides, or exemptions from standard procedures? Is it not hypocritical to deplore being denied equal opportunities and treatment, and then to defend the denial of the same to other individuals or groups? Is it no less hypocritical to denounce the misbehavior of others and defend the very same behavior by members of one's own group?

Who can respect the beneficiaries of favoritism? Who can respect those who gain something denied others? And how can the recipients respect themselves? And what is one to say about legislators who validate such behavior?

There is no evidence that governmental policies based on racial, ethnic, religious, or sexual preferences or proportional representation can assure or generate more freedom, self-respect, cooperation, well-being, or security, than can governmental policies based on individual rights, liberties, and blindfolded justice. □

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THE FREEMAN
IDEAS ON LIBERTY

Individual Responsibility and Economic Well-Being

by Paul A. Cleveland and Brian H. Stephenson

Despite being motivated by apparent concern for the poor, government efforts to redistribute income have failed. Decades of U.S. welfare programs have failed to rescue both the urban and the rural poor. The only way to maximize economic well-being for all is to rely upon individual choice and responsibility, not income redistribution.

In order to transfer income to some citizens, government must first take income from others. The more government attempts to redistribute wealth, the less wealth it finds to redistribute. Ultimately, such action consumes capital, depletes wealth, and ends in widespread hardship and increasing despair.

The Soviet and British experiences with redistributionist philosophy serve as excellent examples in demonstrating that redistribution only produces a greater need for redistribution. For example, the English welfare state has led to an unemployment rate of over 10 percent.[1] It is interesting to note that both the rate and the amount of transfer payments have quadrupled since World War II. Thus, as more money is diverted to support more unemployed citizens, more must be taken from the remaining producers in the economy. At the margin, the incentive to work continues to fall and the economy spirals downward.

Some people immediately challenge this proposition. They suggest that eliminating popular social assistance programs would lead to the demise of all concern for the poor. Proponents of government-subsidized housing, welfare, and health care point out the economic value of our poor, and are quick to remind us that America's great prosperity sprang from the depths of our slums. They argue that it was the poor, the uneducated, and the unskilled that came together and transformed this country into an industrial giant.

Making a comparison of today's poor with earlier immigrants is frivolous because our forebears were different from today's poor. The people who came to America in decades past made sacrifices to build a life for themselves in a free country. They abandoned their possessions and embraced the hope of a new land, a new life, and a better home. On the other hand, today's poor are often discouraged and unwilling to seek opportunities. Most early Americans embraced opportunity with hope, but today's poor possess no such general zeal. If we wish to redevelop a spirit of hope among today's poor, we must reject the plea for government-induced equality, and instead replicate the circumstances faced by those who carved out a living for themselves and their families in earlier generations. That

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earlier reality offered little public assistance. It was market-driven, and those who failed relied largely on the compassion and private charity of their neighbors to help them in times of need.

Our forefathers possessed a sense of responsibility far greater than that generally displayed today because they knew no one would subsidize their complacency. They carefully considered the choices they made, and lived with the knowledge that they had ultimate responsibility for the consequences of their actions. Too many people today have no such understanding. They live with the assurance that regardless of their actions, government will force society to look after them. This mentality separates them from early Americans. Perhaps a modern example can clarify the issues.

Eric's Story

Eric is a young black acquaintance struggling to improve his life. He is determined to better his situation in spite of his disadvantaged environment and childhood. Eric worked to pay his way through an expensive Catholic prep school, and is currently putting himself through college. His path has not been unscathed and there have been times when it would have been easier for him to quit. For example, last summer Eric was in an automobile accident that almost took his eyesight and his life. During his stay in the hospital, he accumulated medical bills of nearly $10,000. Regrettably, he had no medical insurance.

It would have been easy for a person of lesser character to give up and seek relief through government programs, but Eric did not choose that route. Instead, he chose to focus on his goals, left college for a semester to pay off his medical bills, and then returned to school debt-free and ready to make a better life for himself. Eric's story is significant in that it shows his determination to endure hardship in order to reach his goals. In the process of endurance, Eric's character is being developed and his prospects for future success are being enhanced.

Eric personifies how individual responsibility is a far better foundation for the promotion of economic well-being for two reasons. First, Eric had to recognize that no one made or influenced him to drive, fall asleep at the wheel of his car, and run into a telephone pole, nor did anyone force him to go without medical insurance. These were decisions that Eric made freely, privately, and with the knowledge of their potential consequences. Secondly, had Eric accepted government assistance to remain in school, he would not have learned from his mistakes. People learn the most from their errors when they persevere through the hardship of the consequences that result from them.

In addition to these issues, there is the question of equity. The government does not "own" $10,000 to pay for Eric's medical bills. To obtain that money it must take it from someone else. Given the nature of government as collective force, this action is tantamount to theft. No one wins from a long-term system of public theft.

History has demonstrated that government cannot successfully alleviate poverty. In fact, government redistribution actually leads to impoverishment because it promotes the disregard for property rights.

There is nothing wrong with empathizing with the pain and suffering that people endure, or with showing mercy to those who are suffering. Private charity must be responsible so that it does not promote irresponsible behavior. However a problem arises when handouts are presumed to be a right or entitlement. When government force is used to fund charitable activities, the result is a system of public theft which exacerbates profligacy in society. If we truly wish to help the poor and unfortunate we must recognize the importance of individual responsibility, not government redistribution, as the foundation for stimulating economic well-being and character development. □

1. Robert J. Gordon, *Macroeconomics* (New York: Harper Collins College Publishers, 1993).

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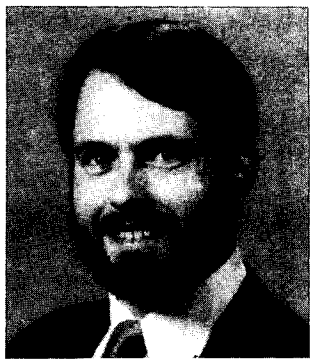

Terror: Against or By Government?

Washington is often convulsed by events that have no impact on the rest of America. Not so the Oklahoma City bombing, which, in contrast to so many other actions, dominated nation and capital alike. And understandably so. It is impossible to describe adequately the horror of the terrorist attack, though many people have tried. The picture of bloodied children alone is enough to indelibly imprint upon our society the barbarity of terrorism, with its helpless, innocent victims.

Yet if it seemed like ruled and rulers could come together for one moment, it was only one brief moment. Unfortunately, the reactions in and out of Washington were completely different. Around the country was anger, desire for understanding, and hope for healing. In the halls of the White House and Congress was shock, followed by a race for political advantage and demand for more power. In short, everyone did what comes most naturally to them—citizens worried about their countrymen while politicians worried about their influence.

Consider first the attempt to brand critics of government as contributing to a "climate of hate" in which violence might occur. Needless to say, it is in the interest of presidents, legislators, and bureaucrats alike to discourage criticism. And many have been quick to use the tragedy in Oklahoma City in an attempt to place themselves beyond reproach.

For instance, the American Federation of State, County, and Municipal Employees ran an ad in *The New York Times* titled "The Call of Duty." AFSCME argued that "the people who work in government service are the faces of America. Serving all of us." Thus, continued the union, "Isn't it time to end the constant attacks on the people who serve us? Who knows what the twisted mind of a terrorist might think? *Or do.*" Ah, if only *The Freeman* hadn't been criticizing failed government programs for decades, the Oklahoma City bombing might never have occurred.

Aside from the fact that this argument is both nonsensical and self-serving, it is also, well, dangerous. What is more likely to create a climate of hate—denouncing illegal and unconstitutional practices by the State that are harmful and sometimes deadly, or covering up such practices and denouncing the people who point them out? It is, in a sense, the new McCarthyism—criticize government, and you are accused of being an accessory to terrorism.

Indeed, this kind of finger-pointing will make it harder to address the real causes of terrorism. Criticism of government does not occur in a vacuum. More than half of respondents in a new Gallup Poll say they fear for "the rights and freedoms of ordinary citizens" at the hands of the federal government. And they do so for a reason.

This is where Washington is so very far

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out of touch. Most policymakers honestly don't understand why anyone would criticize, let alone fear them. Their sentiment was captured by historian Alan Brinkley who, in an article in *The American Prospect*, asked: "How has it happened that among all the powerful institutions in modern society, government has become the principal, often even the only, target of opprobrium among Americans angry and frustrated about their lack of control over their lives?"

How? Ask Randy Weaver, whose family was gunned down by FBI sharpshooters in Ruby Ridge, Idaho. Ask the parents of the Branch Davidian children, who were burned alive in Waco, Texas, in the midst of a BATF assault. Ask Mary Williams, whose 75-year-old husband died of a heart attack during a mistaken SWAT team drug raid on their apartment in Boston. Ask Donald Carlson, who was shot three times in a faulty DEA raid on his home in Poway, California. Ask the thousands upon thousands of people who've had land seized by the Environmental Protection Agency, been audited by the IRS, and been otherwise harassed by the government.

Someone needs to explain to Professor Brinkley that only the government can seize property and kill people with relative impunity. Only the government can destroy businesses, level homes, impose taxes, and regulate property with minimal restraint. Only the government has a monopoly of force. Only the government warrants constant suspicion and fear.

The fact that the State has enormous power and has constantly misused that power requires us, especially in the aftermath of the Oklahoma City attack, to talk about the unsavory role of the U.S. government in promoting terrorism. Although nothing could ever justify Oklahoma City, it, along with other murderous assaults, like the World Trade Center bombing, should not surprise us. Unfortunately, the United States has spent years creating and inflaming a multitude of grievances here and abroad, grievances that some misguided people believe can be resolved only through violence and murder.

For instance, the Oklahoma City bombing may have been a bizarre retaliation for the destruction of the Branch Davidian compound in Waco two years before. Only a twisted mind could think that the killing of four-score people by the government warranted the slaughter of nearly 170 people in and around a government building. Nevertheless, no one should doubt that Waco, too, was terrorism, only committed by the federal government. Neither the absurdity of David Koresh and his beliefs nor the convoluted legal allegations against him justified the initial raid, let alone the final assault. Apparently only the government can risk children's lives with impunity.

The World Trade Center bombing, too, was a predictable outgrowth of official U.S. policy. Persistent American intervention in the Middle East alone has been enough to turn the United States into an international target of terrorism. Though murderously misdirected and morally monstrous, the attacks are a natural response to Washington's determination to make everyone else's international conflicts its own by continually meddling in foreign squabbles and seemingly condoning most any injustice perpetuated by most any ally.

Consider the 1983 bombing of the Marine Corps barracks in Lebanon. The United States sent soldiers into the middle of a civil war, sided with one of the warring parties, and shelled Muslim villages as a show of strength. How, then, could anyone have been surprised when a suicide bomber reversed the direction of death, making 241 young Marines pay the supreme price? The United States intervened in a distant conflict for no cause and terrorized peoples with whom it had no quarrel, providing everything but an engraved invitation to revenge-minded killers. Unfortunately, American policymakers should share responsibility with foreign terrorists for the soldiers' deaths.

Especially dangerous today is the government's campaign to make an enemy of every living Muslim fundamentalist, wherever he resides in the world. There's no doubt that Islam poses a serious challenge to Western

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culture and values. But the United States can do little to halt its spread and has no reason to intentionally antagonize Muslims who otherwise wouldn't even think about America. Yet Washington is speaking of alliances with African nations that most policymakers, let alone citizens, can't find on a map, in order to "contain" an ancient religion that has endured for centuries. Declaring a de facto war on Islam invites retaliation, and the most likely victims will be innocent Americans.

Yes, the United States must respond to terrorism. Part of the solution is improved detection, prevention, and punishment. But the United States must also reduce the manifold justifications, perverse and warped though they be, for terrorism that it has needlessly provided to those with seared consciences and murderous intentions. There are many good reasons why people both fear and criticize government. So long as Washington tolerates, encourages, and, worse, engages in one or another variant of terrorism, it will risk repetitions not only of Oklahoma City, but also of the plethora of other bloody attacks around the globe in recent years. □

Crime and Race

by Ralph R. Reiland

The tragic murder last year of Polly Klaas, a suburban white child forcibly taken from her bedroom by a career criminal, created a national uproar. Her accused assailant, Richard Allen Davis, had been released from prison two months earlier, after serving only half of his sentence for a prior kidnapping.

The Polly Klaas case isn't unique. A recent study from the Bureau of Justice Statistics on early release practices in 36 states and the District of Columbia shows violent offenders serve only 37 percent of their imposed sentences. The average time served for murder is 5.5 years (in California, it's 41 months). For robbery, it's 2.2 years, and 1.3 years for assault. And government statistics show that the majority of early release violent offenders are rearrested for new crimes within three years, one-third of them for new violent crimes.

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However, there's not the same national outrage when the victim is poor and black. "All the murders of inner-city black children at the hands of plea-bargained violent predators elicit no such political response," says John J. DiIulio, Professor of Politics and Public Affairs at Princeton University.

In fact, no group suffers more from lenient early release practices than America's black community. "He would be alive today if the legal system worked the way it should," said Hubert Stone, Sheriff of Robeson County, N.C. Sheriff Stone was talking to Michael Jordan, the Chicago Bull's basketball star, as he buried his father. The two 18-year-olds charged in the killing had long criminal histories at the time of the murder. Larry Demery, out on bail, was awaiting trial for bashing Mrs. Wilma Dial, a 61-year-old convenience store clerk, in the head with a concrete block during a robbery, causing a brain hemorrhage and fracturing her skull. Daniel Green was on parole after serving only two years of a six-year sentence for attempting to kill Robert Ellison by smash-

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ing him in the head with an ax and putting him in a coma for three months.

A black person is murdered in the United States every 42 minutes. The FBI's current Uniform Crime Report shows that blacks, 12 percent of the population, account for over half of all murder victims (with 95 percent being killed by blacks). "We would riot if whites killed this many blacks," says Issac Fulwood, former Chief of Police in Washington, D.C.

In Pittsburgh and surrounding Allegheny County, blacks make up 11 percent of the population and accounted for 74 percent of the homicide victims in 1993 and 65 percent in 1994. Young black males, less than 1 percent of Allegheny County's population, account for nearly one-third of the murder victims. "For a 15-year-old black male in Allegheny County—and there are only about 1,000—the chances of being a homicide victim, most likely from a gun, before reaching the age of 25 are about 1 in 32," reports *The Pittsburgh Post-Gazette*. The chances, by contrast, for a white 15-year-old male are 1 in 1,000.

Federal Judge Frank Easterbrook links the epidemic of crime to the fact that many people figure they can get away with it. "If you raise the price of rutabagas, people will buy fewer rutabagas," he says. In a recent *Commentary* article, James Q. Wilson, Professor of Public Policy at UCLA, states: "The probability of being arrested for a given crime is lower today than it was in 1974. The amount of time served in state prison has been declining more or less steadily since the 1940s. Taking all crime together, time served fell from 25 months in 1945 to 13 months in 1984."

Alone, the criminal justice system can't be expected to get to the root of America's crime epidemic. It's just the last stop along a continuum of social problems. "Street crime cannot be solved by the police, the courts, or prisons," writes Judge David Bazelon of the D.C. Court of Appeals. "Those institutions act as mere janitors, tidying up the wreckage that happens to end up in the courtroom."

The roots of crime are more basic. "We no longer live nobly," says novelist John Updike. What we're witnessing is an extensive cultural decline and, unfortunately, much of the social regression seems impervious to government spending. Since 1960, with a population increase of 41 percent, government spending on welfare and education increased by 630 percent and 225 percent respectively (in real terms, adjusted for inflation). In the same 30-year period, SAT's fell by 80 points and violent crime increased by 560 percent.

Still, the vast majority of Americans think Daniel Green and Richard Allen Davis should have been in jail on the nights that Jordan and Klaas were killed. A recent *Parade* magazine survey shows that 92 percent of the public wants repeat serious offenders to serve all of their sentences without being paroled. "By requiring criminals to serve at least 85 percent of their sentenced time, we could prevent 4,400,000 violent crimes annually, nearly three-quarters of the total violent crimes committed," states James Wootton, President of the Safe Streets Alliance in Washington, D.C.

"A lot of blacks are very conservative about crime and that has to do with the fact that many of them are victims," says the Reverend Al Sharpton in a *New York Post* interview. In a recent Gallup survey, 74 percent of black respondents said parole should be more difficult to get, and 67 percent said youth offenders should be treated the same as adults.

Government experts and academics will debate about crime, and be well paid for it. Conservatives oppose judicial restraints on the police and courthouse mollycoddling. Liberals focus on racism and guns. Both worry about the impact of violent movies. Meanwhile, as the arguments continue and the grant money flows, the number of black males being killed every year is higher than the total number of black soldiers killed in the bloodiest decade of the Vietnam War.

It is time we remembered that, of all groups, it is blacks who are the worst victims of our crime epidemic. And it is time for us to understand that leniency toward criminals actually harms blacks the most. □

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THE FREEMAN
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The Uneasy Case for "Tax Fairness"

by Dale Bails

How should the tax burden be distributed? How much should one group or individual pay relative to some other group or individual? Both of these questions are usually answered by some vague reference to "fairness" and "equity."

In common usage, equity in taxation implies that high-income individuals should pay more than middle-income individuals, and low-income individuals should pay the least. More formally, the issue of equitably distributing the tax burden among taxpayers has generally been resolved by applying the concept of the "ability-to-pay" principle of taxation. A shorthand statement of this principle would be "treat equals equally and unequals unequally."

The issue of levying higher taxes on those with higher incomes is frequently cited as a justification for a progressive or graduated tax structure. Under such a structure, the more income an individual earns, the larger the tax bite out of any additional income. For example, if an individual earns $30,000, the first $10,000 might be taxed at a rate of 10 percent, the second $10,000 at a tax rate of 15 percent, and the third $10,000 at a tax rate of 25 percent. Thus, a person who earns $30,000 will pay a total tax of $5,000.

Although it is true that progressive taxes satisfy the higher tax requirement for those with higher incomes, there are fundamental problems with this position. The requirement of higher taxes on higher incomes is also satisfied under a flat-rate tax where a single tax rate is applied to all income. In the case of the individual who earns $30,000, the last $1 earned would be taxed at exactly the same tax rate as the first dollar earned. If the single tax rate were set at 10 percent, the total tax bill would equal $3,000. For a person who earns only $20,000, the tax bill would equal $2,000. The principle of treating unequals unequally requires only that those with higher incomes pay higher taxes, a condition that is satisfied under a flat-rate tax. It does not require that they face a higher tax rate. Those who justify progressive taxation by relying on the ability-to-pay principle demonstrate a complete lack of understanding of this principle.

Advocates of progressive taxation argue that individuals with larger incomes have more resources with which to pay taxes; thus, they place a lower value on the additional dollars that they earn (or that would be paid in taxes) than do lower-income individuals. If this argument is correct, levying a higher tax rate on those with higher incomes has some intuitive appeal.

However, the validity of this position rests critically upon two questionable assumptions: (1) the value of additional income to those who earn it must decline, (2) it must decline more rapidly as income increases. The value of the income earned by individuals is reflected in the goods and

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services they purchase. Thus, if the lower-value argument is true, it would suggest that, for example, the additional income required to purchase a color television is less important than the lower income required to purchase a radio. Similarly, the purchase of an automobile for transportation is not as important as being able to purchase a bus ticket for travel. In a more general sense, this position argues that all individuals, if asked to choose, would prefer fewer goods and services to more. An examination of real-world behavior certainly seems to suggest the opposite. We generally observe that individuals place some value on obtaining more goods and services and earning more income.

Further, there is no objective method for determining whether or not one individual derives more or less value from an additional dollar of income over any other individual. Those who justify progressive taxation on the grounds that some (higher income) individuals place a lower value on the goods and services that could be purchased with this income are implicitly assuming that the preferences of all individuals are identical. They assume that all of us, if left to make our own decisions, would make exactly the same choices.

Individual Differences

In light of the tremendous diversity among individuals, this is a curious assumption indeed. Individuals differ with respect to the type of entertainment and social activities they enjoy, the goods and services they consume, the company they prefer, and virtually all other matters. Why then should they have exactly the same preferences with respect to how much income they choose to earn? Who among us is willing to argue that a person who chooses to work longer hours contributes less to society than a person who chooses to work less and create art with the additional leisure time? Is art more valuable than making an automobile? Is practicing medicine less valuable than driving a race car? Those who advocate progressive taxation are in reality arguing that the value of all goods and services is identical for all individuals and are, in essence, arguing, that all professions are equally valuable.

This complete disregard for individual initiative and free choice, under the guise of equity, is puzzling. It focuses completely on the end result and never on the process which generated this result. Those who would advocate redistributive policies, such as progressive taxation, ignore totally the process by which income is earned. There is at least some reason to believe that the majority of those with higher incomes have earned this position because they are providing a good or service that the rest of us value highly. Who among us would claim that the millions of dollars earned by Bill Gates, the founder of Microsoft, by Garth Brooks, the country singer, or by Sam Walton, the founder of Wal-Mart, should be confiscated under the guise of fairness? Did not these individuals earn their high incomes fairly through the voluntary purchase of their services by the rest of us? Those who favor a progressive tax structure are suggesting that the process by which these and other successful individuals earn their incomes matters not at all.

Another curious aspect of tax policy in the United States is that a majority of individuals are allowed to impose tax rates upon a select minority. This type of policy would surely be deemed unacceptable in all other policy arenas. Indeed, in many other endeavors, the United States goes to great lengths to protect minorities from majority oppression. The principle of treating equals equally is so important that it has been written into the U.S. Constitution as the Equal Protection Clause of the Fourteenth Amendment. It is time to apply this principle to taxation.

There is something perverse about arguing, in the name of equity, that the efforts of a minority of high-income individuals are less worthy than those of lower- and middle-income individuals. It is far more appealing to believe that all individuals should stand equally before the tax law and be subject to the same statutory rate of taxation on their efforts. □

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THE FREEMAN
IDEAS ON LIBERTY

Vouchers: Competition or Conformity?

by Sarah Erdmann

The public is aware of the problems plaguing the public schools, and increasingly it has little faith that the system will improve. In fact, in a 1992 Gallup poll, people were asked to assign a letter grade to the public school system as a whole, and only two percent responded with an "A" grade, while 20 percent of those polled gave the system a failing grade. Over 80 percent were dissatisfied.[1] Public school teachers in California are twice as likely as the general public to put their children into private schooling. Apparently many teachers do not even believe in the system that employs them.

One widely held belief is that crumbling foundations of public education could be rebuilt if competition were introduced. Public schools would be spurred into action to attract students. Thus, in theory, improvements would be made.

In the free market, where competition thrives, producers try to offer consumers the best possible product at the lowest possible price. Thus, the consumers choose from among the best products. Conversely, in controlled economies, the government regulates the production process to the point that producers cannot make the products desired by consumers. Since consumers have no choice as to what to buy in a monopoly, they have to settle for mediocre products, and thus the producer has no incentive to improve his products. This is precisely the condition of the public school system. It is mediocre, and subservient to state control.

One of the most widely cited schemes to increase competition within the public schools is the voucher system. The voucher system would refund to parents part of the money used in their child's education. Parents would be able to put this money toward a private education for their child, or possibly even toward education in a different public school. A 1991 survey conducted by Survey Research Center at the University of Akron indicated that, if given the choice, at least 50 percent of public school students would transfer to alternative schools.

Though this voucher arrangement may sound profitable for the non-public schools, it would, in fact, be devastating. All of the evils of the current public system would simply be transferred to the private schools.

The students associated with crime, drugs, and poor grades would most likely be the first to migrate to the private schools because their parents would undoubtedly blame the public system for their children's lack of success. If, indeed, the voucher system were implemented, public officials would surely demand a strong guarantee of open admissions in the private schools to protect the rights of everyone. Therefore, private and non-public schools would be forced to reflect the community they serve, with correct quotas of minority representation. In discussing the voucher system, the public school officials have, at times, expressed concern about the public sector being completely depleted of students, and as a result, funds. On the contrary, "A voucher system, far from destroying the public sector, would greatly expand it, since it would force large numbers of schools, public and private, to open their doors to outsiders if they wanted to get funds."[2] Unfortunately, the problems do not end here.

Under the voucher system, if private schools become filled with public school students, these schools will also indirectly be filled with money coming from the public system. Government funds will be supporting private schools. This is dangerous. Eventually, when the voucher schools are

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saturated with government funds, this financial support will turn into a harness. The responsibility and commitment the government has assumed for education will suddenly become restrictive. Since government aid will be keeping these voucher schools afloat, the schools will have to be accountable to the government in order to succeed. "The government might provide vouchers free of strings for several years, only to heavily regulate the schools once they became dependent on government funds,"[3] writes David Bernstein. Thus, the government pays for the education of each child.

"Government intrusion always follows government funding," adds James Dunn of the Baptist Joint Committee of Public Affairs, "If [the voucher's] purpose is to channel public money to private and parochial schools, we're opposed, because those schools are supposed to be beyond the reach of government."[4]

Government agencies would develop a panoply of regulations to apply to the voucher-supported schools, should the system ever be fully instituted. First the school would receive the voucher; next it would send the voucher to an appropriate oversight office, which would review the school and its adherence to the rules set up by the agency. Some of these regulations might include the following: the school must accept the voucher as full payment of tuition; the school must have open admission, with an acceptable number of minorities; it must utilize the standardized textbooks provided by the state; it must provide a completely approved financial report, and may not use voucher money to support religious instruction. "Both publicly- and privately-managed voucher schools would soon be entangled in the usual bureaucratic and political jungle, in which everything is either required or forbidden,"[5] concludes James Mecklenburger.

If a school chose to continue its religious instruction, the money used would have to be raised separately, with a separate accounting system, providing this would be approved by a government agency with the authority to institute new regulations as needs are presented. If the school fit the standards, the voucher agency would then cash the voucher. To prevent "hucksterism"—the process of a new school opening, collecting funds, and then immediately closing—the agency would withhold the right to return the voucher funds at intervals. This, in effect, would control how the school spends its money. "The [educational voucher agency] would soon develop a regulatory system as complex and detailed as that now governing the public schools."[6]

Moreover, the state could withhold funds from schools that it deemed educationally dangerous. Basically, this could apply to any school that the state believes to be nonconforming. This might apply to all religious instruction. At every angle religious education is being attacked and the non-public schools are basically made into carbon copies of the most restricted public schools.

Thus, under the voucher system, schools would become assimilated, with diversity becoming practically nonexistent. In fact, the American Civil Liberties Union has promised to "Lobby and litigate vigorously to make sure that the full panoply of regulations and constitutional safeguards that apply to public schools will apply to the recipients of vouchers as well."[7] This means that all of the public school courses that teach sex education, values clarification, and other a-religious or even anti-religious classes may, under the voucher system, soon appear even in religious private schools.

Though some believe healthy competition will be the result of the voucher system, on the contrary, voucher-supported schools will become part of the monopoly of education by the government. Today, the salvation of free, non-politicized education in the United States rests on home-educators and those private schools that are willing and able to resist this socialist movement. □

1. "The 24th Annual Gallup," *Phi Delta Kappan*, Sept., 1992, p. 42.
2. James A. Mecklenburger, *Education Vouchers: From Theory to Alum Rock* (Homewood, Ill.: ETC Publications, 1972), p. 116.
3. David Bernstein, "Religion in School," *Current*, May 1992, p. 15.
4. James Dunn, as quoted in John H. Dukakis, "Should Government Help Kids Attend Private Schools?" *Christianity Today*, May 15, 1987, p. 53.
5. Mecklenburger, p. 43.
6. Mecklenburger, p. 43.
7. Bernstein, p. 15.

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THE FREEMAN
IDEAS ON LIBERTY

Maria Montessori, Who Gave Children Everywhere Freedom to Achieve Independence

by Jim Powell

What did inventor Alexander Graham Bell, philosopher Bertrand Russell, actor Cary Grant, actress Vanessa Redgrave, singer Bing Crosby, comedian Bob Hope, cellist Yo-Yo Ma, and Britain's Princess Diana have in common? They all sent their children or grandchildren to schools inspired by Maria Montessori, the courageous woman who showed why freedom is absolutely essential for creativity and independence.

Despite sharp differences on political issues, people of every major culture and religion appreciate how Montessori schools set children free to learn. There are Montessori schools throughout Europe and the Americas. Montessori schools are well-established in India. There are Montessori schools in mainland China. They are in Russia. They are expanding fast in Japan. There's a Montessori school in remote Cambodia. Both Israel and the United Arab Emirates have Montessori schools. A Montessori school reportedly is being built in Somalia. Altogether, there are Montessori schools in 52 nations around the world.

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Montessori schools thrive because children and parents love them. More than 90 percent of U.S. Montessori teachers, for instance, are in private schools where revenue comes from parents voluntarily—not from bludgeoned taxpayers. By contrast, the major U.S. teachers' colleges, from Columbia on down, do their best to ignore Maria Montessori, treating her as a historical figure of little relevance now. Vast government teachers' unions are uneasy about the freedom in Montessori classrooms.

This has always been a maverick movement. Defying "progressive" educators who molded children to fit a collectivist vision, Maria Montessori declared that the purpose of education is to help individuals fulfill their destiny. She rebelled against regimented schooling and insisted that children must have freedom to grow. She showed that children learn mainly by teaching themselves, not by having teachers drum knowledge into passive heads. Montessori established that children begin learning practically from birth, and education—the right kind—could start offering benefits much sooner than had been thought.

"The fundamental principle," she wrote, "*must be the liberty of the pupil*;—such liberty as shall permit a development of

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individual, spontaneous manifestations of the child's nature. If a new and scientific pedagogy is to arise from the study of the individual, such study must occupy itself with the observation of free children."

Montessori was a formidable presence when, in 1906, she began making epic discoveries about how children learn. "In her late thirties," wrote biographer Rita Kramer, "she was a somewhat portly figure, still handsome but putting on weight, still self-assured but a shade more dignified. She would come into a classroom wearing a simple but stylish dark-colored dress or shirtwaist, her dark hair piled neatly on top of her head, and smile at the children." She had a "smooth, unwrinkled face and bright, clear eyes . . . poise and serenity."

Montessori was born August 31, 1870, in Chiaravalle, Italy—the very year Italian states combined to form a new nation. Her father, Alessandro Montessori, was an official who managed the finances of a government-owned tobacco factory. Her mother, Renilde Stoppani, was the bookish daughter of a landed aristocrat.

When Maria was about five, Alessandro Montessori got a job as an accountant in Rome and moved the family there, so she would have access to a better education. She was encouraged to set her sights on teaching, since that was among the few professions available for women. Stubborn Maria, however, considered professions which were closed to women: first engineering, then biology and medicine. In 1896, she became Italy's first woman doctor, but she wasn't permitted to practice because it was unthinkable to have a woman examining a man's body.

Montessori accepted an appointment as assistant doctor at the Psychiatric Clinic, University of Rome. This gave her an opportunity to observe "defectives"—children who, in modern parlance, were retarded, learning-disabled, or difficult for other reasons. These children were kept in crowded rooms without toys or much else to work with. As she observed them, she became convinced that their lives might be improved if they were treated more thoughtfully. Searching for ideas, she discovered the writings of Jean Itard and Edouard Seguin, French doctors who had spent their lives looking for better ways to educate such children.

In 1899, she spoke on the subject before a teachers' conference, and it caused quite a stir. She was invited to become a lecturer at the University of Rome and director of the new Orthophrenic School for "defective" children. For two years, 1899 to 1901, Montessori searched feverishly for teaching techniques that could help these children. She spent about 12 hours a day observing them, working with them, trying out various ideas. She visited institutions for "defective" children in London and Paris. Incredibly, the children she taught learned to read and write as well as ordinary children.

Then came the anguish and joy of her life that led to a new career helping children around the world. At the Orthophrenic School, she worked with a Dr. Giuseppe Montesano. One thing led to another, and they had an affair. She gave birth to a son, Mario. It appears that Dr. Montesano refused to marry her—he soon married another woman. Her mother was certainly horrified that scandal could destroy her daughter's career. Mario was sent to live with country cousins near Rome, and the whole business was hushed up. Biographer Kramer concluded that pregnancy as well as breaking up with Dr. Montesano must have occurred in 1901 when Maria suddenly resigned from the Orthophrenic School, dropped out of sight for about a year, and abandoned her successful work with "defective" children.

Imagine the anguish of this woman who was pressured to give up her own child, unable to share with him the benefits of her extraordinary insights that would help other people's children around the world. For more than a decade, she visited him periodically without identifying herself. He thought of her as a mysterious "beautiful lady." Not until after Maria's mother died in 1912 did Mario come live with her.

Meanwhile, Montessori transformed her grief into a new vision for her life—improving

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education for normal children. She enrolled as a *student* at the University of Rome. She studied everything that might help her better understand how children learn. She took courses in psychology, anthropology, hygiene, and teaching. She visited elementary schools and noticed what teachers did and how children reacted. These schools had adopted the military-style method promoted in Prussia, the United States, and elsewhere: large numbers of students seated in rows before a teacher who instructed everyone at the same time. She reacted instinctively against the regimented teaching, the passivity of students, the system of rewards and punishments.

Casa dei Bambini

Montessori wrote magazine articles expressing her views, and one of them got the attention of Edouardo Talamo, an executive with a residential real-estate developer, the Institutio Romano dei Beni Stabili. Two of the firm's new apartment buildings were being vandalized by young children living there, whose parents were away at work. Talamo concluded it was in the self-interest of the firm to start a school within each building, so the children would have constructive things to do and be properly supervised. He asked Montessori for advice. This was no plum job, because the buildings were in the impoverished, squalid, violent San Lorenzo section of Rome.

She offered to take on the project herself, despite objections from friends who considered it demeaning for a doctor to be teaching young children. Instead of the usual school desks, Montessori acquired child-sized chairs and tables for 50 or more three- to six-year-olds. She brought along self-correcting instructional materials which she had created for "defective" children, to help them learn sorting, fitting things together, and other skills essential for independence. Her observations suggested the need for additional materials, and gradually her repertoire expanded. She found that children learned abstract concepts more readily when materials involved all of a child's senses, touch as well as sight and sound. Known as Casa dei Bambini—"Children's House"—the school opened January 6, 1907.

The children were an unpromising lot—sullen, withdrawn, rebellious. Yet Montessori made a series of startling observations as she worked with them. She discovered children have a powerful, inborn desire to learn and to achieve independence. She saw how children learned spontaneously where they had enough freedom. They developed remarkable concentration on tasks that they chose. They preferred exploring real things—the world of grown-ups—rather than conventional toys. Classroom order was maintained without rewards and punishments when children were happily engaged. Children blossomed in an atmosphere of dignity, respect, and freedom.

Freedom, Not License

Although Montessori gave children considerable freedom, this didn't mean they could do anything they wanted. She insisted children conduct themselves properly and treat others with respect. "The first idea that the child must acquire," she wrote, "is that of the difference between *good* and *evil*; and the task of the educator lies in seeing that the child does not confound *good* with *immobility*, and *evil* with *activity*, as often happens in the case of old-time discipline. And all this because our aim is to discipline *for activity*, *for work*, *for good*; not for *immobility*, not for *passivity*, not for *obedience*. . . . A room in which all the children move about usefully, intelligently, and voluntarily, without committing any rough or rude act, would seem to me a classroom very well disciplined indeed."

Montessori observed that children thrived when the teacher—whom she termed a "directress"—showed how to do something, then encouraged free exploration. She emphasized practical life skills to help children develop self-confidence and become more independent. Such skills included personal hygiene, putting materials

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back where they belonged, cleaning the classroom, preparing meals, taking care of plants and pets.

Like most people, Montessori had assumed that children wouldn't be receptive to reading and writing until age six. But the young children in her classroom asked for instruction. She and her assistant made sets of script letters with markers enabling the children to tell which way was up. She devised exercises to help children learn the shapes and sounds of letters.

Within two months, she witnessed an explosion of writing. By Christmas, while government school children were still struggling with their letters, two of Montessori's children—four-year-olds—wrote holiday greetings to building owner Edouardo Talamo. Montessori reported triumphantly: "These were written upon note paper without blot or erasure, and the writing was adjudged equal to that which is obtained in the third elementary grade."

Contrary to prevailing doctrines, Montessori found that children best learned how to read after learning how to write. She prepared cards to label everyday objects, and she showed how to sound them out—the children already knew the sounds of individual letters. *Within days*, they were reading street signs, store signs, package labels, and just about everything else around them as well as books.

The Montessori Method

She began training teachers, opening more schools and writing books. Her first book was *Il Metodo della Pedagogia Scientifica applicato all'educazione infantile nelle Case dei Bambini*. In 1912, it appeared in English as *The Montessori Method* and became an American bestseller. She was no abstract philosopher like her contemporary John Dewey. Rather, she was a doer who provided a specific model to help children learn and achieve independence. Her book was translated into Chinese, Danish, Dutch, French, German, Japanese, Polish, Romanian, Russian, and Spanish.

Montessori was a sensation. Aspiring

Maria Montessori (1870–1952)

teachers crossed the continent to be trained by her. In December 1913, she visited the United States where she met telephone inventor Alexander Graham Bell, electrical genius Thomas Edison, social worker Jane Addams, and Helen Keller who, though blind and deaf, had made herself a remarkably cultivated woman. During the next four decades, Montessori traveled throughout Europe and Asia—she trained over a thousand teachers in India alone.

Although Montessori schools sprung up around the world, her influence waned after the initial publicity about the Casa dei Bambini. Concerned that her work was being oversimplified, she insisted on total control of teacher training and of Montessori materials, and this alienated many supporters. She encountered ferocious opposition from academics, especially in the United States. The most influential adversary was William Heard Kilpatrick, a "progressive" follower of John Dewey and professor at prestigious Columbia University Teachers College.

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Montessori surely encountered opposition because she was a woman when school administrators and education professors were men. She was Catholic, which made a lot of Americans suspicious. Her academic training was as a medical doctor, not an educator. Finally, she was Italian. Americans had become disillusioned with President Woodrow Wilson's intervention in World War I, which failed to "make the world safe for democracy" as he had promised, and they turned inward, away from Italy and just about everything else European.

Maria and her son and his family left Italy in 1936 when fascist dictator Benito Mussolini imposed government control over schools. They settled in Amsterdam, then spent World War II in India and returned to Amsterdam afterwards, promoting her ideas every step of the way. Most famous student of an Amsterdam Montessori school: a Jewish girl named Anne Frank whose poignant diary was published after she died in Hitler's Bergen-Belsen concentration camp.

While chatting with friends in Noordwijk aan Zee, a North Sea Village not far from the Hague, Maria Montessori suffered a cerebral hemorrhage and died May 6, 1952. She was almost 82. Mario, who had become her training associate, was by her side. She considered her place wherever she happened to be, so she was buried at a Catholic church cemetery in Noordwijk.

When the obituary notices appeared, few Americans had any idea who she was. Rejecting failed "progressive" education and rooting around forgotten doctrines, though, some enterprising individuals rediscovered Montessori.

In Greenwich, Connecticut, a feisty, outspoken educator named Nancy McCormick Rambusch wasn't satisfied with the offerings from local schools. She had read about how Montessori got great results giving children freedom to learn. Rambusch went to London for Montessori teacher training. Friends asked her to educate their children, and in 1958 she opened the Whitby School which sparked the American revival of Montessori.

Four years later, at Santa Monica (Calif.) Montessori School, former government school teacher Ruth Dresser led the revival on the West Coast—attracting celebrity parents like Robert Mitchum, Yul Brynner, Michael Douglas, Sarah Vaughn, and Cher.

Now there are 155 American schools accredited by Association Montessori Internationale (AMI), the group established by Maria Montessori in 1929 to uphold her standards. Another 800 schools are accredited by the American Montessori Association (AMS) which, started by Rambusch in 1960, considers some variations appropriate for American culture. About 3,000 more schools call themselves "Montessori." In a dramatic turnabout, 200 government schools, embarrassed by revelations of their costly failures, have established "Montessori" programs.

My own son, Justin, goes to The Montessori School (AMI, Wilton, Connecticut), which is a wonder. It goes through the sixth grade. Tuition is around $5,000 versus the $10,000 per student local government schools spend. Like Montessori schools everywhere, mine welcomes parent classroom observations—discouraged in local government schools. You can see for yourself how children thrive when they are free to move about. You can see the intense, joyous concentration of children who freely choose their work. You can see children teach themselves important skills with Montessori materials. You can see children gain independence with the liberating spirit of Maria Montessori. □

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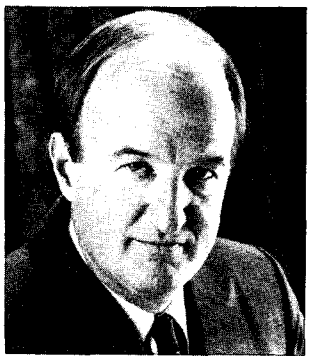
The Age of Confusion



"There's a great deal of agreement among economists, contrary to what people may think."

—Milton Friedman, interview in *Reason*, June 1995

Is the economics profession moving toward consensus or away from it? In a recent interview in *Reason* magazine, Professor Friedman happily proclaims that most economists agree on certain fundamentals. "You won't find much difference of opinion on the proposition that raising the minimum wage will cost jobs. You won't find much difference of opinion on the desirability of free trade."

I wish Professor Friedman were right, but unfortunately, I'm afraid the profession is moving further away from consensus toward an Age of Confusion. Judging from recent conflicting studies, they apparently can't even agree on the evils of the minimum wage and protectionism.

Will increasing the minimum wage cost jobs? Economic theory asserts that if you raise the cost of labor, the demand for workers will decrease. Yet in a recent study of the minimum wage at fast-food restaurants in New Jersey and Pennsylvania, economists David Card and Alan Krueger claim just the opposite. Surprisingly, they conclude, "We find that the increase in the minimum wage increased employment."[1] Both teach at Princeton University, and Professor Card was recently honored with the John Bates Clark Award for the most outstanding economist under the age of 40. The article has created a furor, however, with counter-studies questioning the reliability of the Card-Krueger data, which was based entirely on telephone interviews with restaurant managers. A similar study based on actual payroll records contradicts the Card-Krueger conclusions.[2] Nevertheless, the Clinton administration's support for an increase in the minimum wage is based in part on the controversial Card-Krueger study.

Academic economists are also taking pot shots at another sacred cow, the virtue of free trade. A recent work by Paul Bairoch, professor of economic history at the University of Geneva, claims that protectionism is not at all bad and in fact has generally had a positive impact on economic growth. After surveying the relationship between tariff rates and GDP data for industrial nations since 1846, he asserts that many industrial nations often suffered recessions when free trade was adopted and recovery when protectionism was imposed. Great Britain is the only major exception, he notes.[3]

The Flaw in Empirical Studies

The problem with these historical studies is not just the data, but the whole issue of linking one set of data with another. In logic, it's known as the *post hoc ergo propter hoc* fallacy. Just because one observation occurs at the same time as another doesn't necessarily mean one causes the other. It is sheer folly to isolate one factor among the complex mix of factors playing a role in economic activity. Correlation does not mean causation.

For example, several years ago, in the

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midst of a recession, the state of Utah raised taxes. Since then, the economy has boomed. Did the tax increase cause the recovery in the Utah economy? In fact, it was outside forces that stimulated economic growth—in particular, a huge transfer of people and wealth from California to Utah and other Western states. Earthquakes, bad weather, crime, taxes, and a host of other problems caused Californians to flee the state. California's loss was Utah's gain. In other words, Utah recovered in spite of, not because of, the tax increase. No doubt Utah's economy would have grown faster had it not raised taxes.

The debate over deficit spending is another example of the *post hoc* fallacy. Sound economic theory states that deficit spending by the federal government raises interest rates and crowds out private investment, thereby retarding growth. Yet apologists for the deficit, including some supply-siders, use the 1980s to repudiate this view. During the 1980s the deficits ballooned but interest rates fell. Therefore, they argued, deficits don't matter.

They miss the point. Crowding out still took place. The economy could have grown significantly faster in the 1980s if government spending had been cut sharply, eliminating the deficit and even running a surplus. Interest rates could have fallen much more than they did, thereby stimulating more growth.

The Battle Enjoined

Back to the minimum wage issue. Even if we accept as valid the data from Messrs. Card and Krueger, how is it possible for employment to rise following an increase in the minimum wage? One possible explanation—and I emphasize the word "possible" because there could be a variety of explanations—is that New Jersey raised its minimum wage in early 1992, just when it was emerging from a recession. A sufficiently strong recovery in the New Jersey economy could easily mask the ill-effects of an 18 percent jump in the minimum wage.

Similarly, in Professor Bairoch's defense of protectionism, the fact that Great Britain is a glaring exception to his thesis demonstrates the complexity of the issues involved. Interestingly, he chooses the period 1870–92 in the United States as his best example: the U.S. increased its protectionism while enjoying one of the most rapid periods of growth in its history. Yet he forgets that 1870–92 followed after a devastating civil war, where no growth occurred at all and over 600,000 soldiers lost their lives. During the post-war environment, the federal government shifted from an inflationary greenback period to a gold standard, interest rates fell sharply, the population grew rapidly, transportation exploded, and manufacturing output increased dramatically. How can Professor Bairoch tie tariff legislation to the vast changes in economic activity during this period, especially given the relatively small role of foreign trade in U.S. output?

Beware of False Relationships

The above challenges to free-market fundamentals demonstrate a serious flaw in the way some economists conduct their research. As I have shown, trying to prove or disprove a theory through empirical observation is highly problematic. It was Ludwig von Mises who first raised this fundamental methodological issue. "The truth is that the experience of a complex phenomenon . . . can always be interpreted on the ground of various antithetic theories."[4]

Laboratory experiments are proper in the physical sciences, but they are practically impossible to duplicate in economics. History cannot prove a theory, only deductive logic can. □

1. David Card and Alan B. Krueger, "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania," *American Economic Review* (September 1994), p. 792.
2. Richard B. Berman, "Dog Bites Man: Minimum Wage Hikes Still Hurt," *Wall Street Journal*, March 29, 1995.
3. Paul Bairoch, *Economics and World History: Myths and Paradoxes* (University of Chicago Press, 1993), pp. 44–55.
4. Ludwig von Mises, *Human Action*, 3rd ed. (Regnery, 1966), p. 41.

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BOOKS

The American Economy in the Twentieth Century

by Gene Smiley

South-Western Publishing Co. • 1994 • 442 pages • $38.85

Reviewed by Mark Skousen

Uncork the champagne! It's time to celebrate! The first free-market economic history textbook is now available for college students. *The American Economy in the Twentieth Century* is written by Gene Smiley, economics professor at Marquette University, and published by South-Western, a major college textbook publisher.

There is much to applaud. Smiley's textbook is lucid, interesting, well-documented, and replete with charts and graphs.

Professor Smiley views it as a supplemental text because it covers only the twentieth century. But, as any student knows, pre-twentieth-century economic history is somewhat dry, and most professors don't spend enough time on the twentieth century, where the hot issues of economic theory and government policies surface.

Smiley doesn't just recount economic history, he addresses all the major debates. He does a masterful job of expounding on the theories and policies surrounding the two world wars, the Roaring Twenties, the Great Depression, and the post-war modern economy, giving fair treatment to all points of view.

What makes this text so different from all others? Lots of things. I particularly like chapters six through eight on government intervention in the economy during the critical period 1920–40.

• Chapter 6, "The Role of Government, 1920–1940: Monetary and Fiscal Policies and the New Deal," reveals new research on the booming 1920s, the evolution of monetary policy under a flawed international gold standard, and the pros and cons of the New Deal.

• Chapter 7, "What Caused the Great Depression?," is the most comprehensive piece ever written on the subject. It includes a full Austrian explanation, normally missing from standard textbooks. But it doesn't shortchange Monetarist, Keynesian, and other explanations. Instructors need not be concerned about bias in this textbook. Smiley really does offer equal time for all schools of thought. Moreover, he doesn't ignore any of his critics, a chronic disease among many academics.

• Chapter 8, "The American Economy During the 1940s," includes new research questioning the magnitude of the recovery during World War II, based on breakthrough research by historian Robert Higgs and others.

In addition, Smiley gives an objective analysis of public-sector unionism, the agricultural shortages and energy crises of the 1970s, and the farm debt and banking crises. In all these controversial issues, the author focuses on the role of government.

I also found fascinating his extensive coverage of the dramatic changes in technology and industry during the twentieth century. He has an entire chapter on the communications revolution, including radio and TV, often overlooked in mainstream textbooks. Another chapter is devoted to developments in retail trade. He covers finance, banking, international trade, labor, agriculture, and manufacturing. Finally, Smiley has a thought-provoking chapter on the distribution of income.

I recommend this textbook to all economic historians and students who desire a full and fair examination of what Paul Johnson labels the century of "superpower and genocide" and Carroll Quigley calls the generation of "tragedy and hope." □

Dr. Skousen, an economist at Rollins College and editor of Forecasts & Strategies, *writes a monthly Freeman column.*

Taxation and Confiscation

with an introduction by Hans F. Sennholz

The Foundation for Economic Education, Irvington-on-Hudson, New York • 1993 • 208 pages • $14.95 paperback

Reviewed by Daniel J. Pilla

Washington lawmakers are slowly beginning to admit a fact many of us have known for some time: our tax system is broken beyond repair. The grumblings have led to a stream of major tax-change proposals such as I have not seen in 15 years. Some advocate a flat tax, and

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others seek an even steeper graduated tax. Some call for a European-style value added tax and still others hope to create a pure consumption-based sales tax.

The center of the debate is the question of what type of tax system will raise the revenue demanded by the federal government. Lawmakers wrestle with increasing deficits and what appears to be a decreasing tax base. Since wages and income are the base upon which 80 percent of all federal revenue is raised, and since real wages are in decline, the genuine question of "*what* to tax and *in what* amounts" seems difficult to answer.

Throughout the entire debate, however, we have not seen the joinder of what I believe is the seminal question. The questions of *what* to tax and in *what* amounts are, in fact, secondary. The principal question America should be asking is, *whether* to tax in the first place. Taxation, after all, is the primary means by which the functions of government are carried out. If we do not address the seminal question of whether to tax, the supposition is that any action the government undertakes is legitimate, providing it can be funded. This supposition is not only erroneous, it is most dangerous, as evidenced by our current federal debt.

The essays presented by FEE in *Taxation and Confiscation* are particularly relevant to this debate. Not only do the various authors address the secondary questions of what to tax and in what amounts, but the crucial threshold question is reached. In this regard, I am particularly impressed with Clarence Carson's discussion of the "general welfare" clause of the United States Constitution. I am well satisfied it is the single most misunderstood phrase in the Constitution, if not the entire body of American law.

The "general welfare" clause has been used, or rather misused, to erect a welfare state which our Founding Fathers clearly never intended. In *Taxation and Confiscation*, Carson establishes the true meaning of the phrase, then skillfully answers the question "whether to tax." Until we all understand what he teaches, I fear there is little hope of dismantling the costly federal leviathan.

The collection of essays which comprise the pages of *Taxation and Confiscation* go well beyond this issue. From the pen of various authors, including William Henry Chamberlin and Ridgway K. Foley, Jr., we are taught important lessons about the nature of a fair tax system and the elements of the economy which form a sound tax base.

Another issue which is treated extensively in the book is the question of whether and to what extent a tax system should impose burdens upon capital. Authorities including Hans F. Sennholz, Robert G. Anderson, and John Semmens paint a clear and unmistakable picture of the relationship between capital and strong, sustainable economic growth. The case is plainly made for relieving the tax burden on America's capital.

The one drawback to the book is the fact that some of the essays present economic statistics which are out of date. For example, the essay by Christopher Witzky and Rolf Wubbels addresses the negative effects our tax system has on national rates of savings and investment. The article, entitled "Government Policies and Capital Growth," appeared originally in the October 1981 issue of *The Freeman*. It is important to note the principles outlined in this essay, and throughout the book, are timeless. Still, I would have liked to see more up-to-date numbers to illustrate the points made.

Overall, *Taxation and Confiscation* is a tremendously important guide to those of us who will shape tax policy over the coming years for the United States. It provides the solid support needed to help agitate in favor of a non-graduated tax system, a system which is simple, fair and efficient, and one which encourages savings and investment, as opposed to the current system in which none of these elements is present. Even better, the guide helps to measure the current proposals coming from Washington against these critical yardsticks. □

Mr. Pilla, a tax litigation consultant from St. Paul, Minnesota, is author of eight books dealing with taxpayers' rights issues and tax policy and editor of a monthly newsletter, Pilla Talks Taxes. *He is also the co-founder and executive director of the Tax Freedom Institute. His radio commentary,* The Tax Rescue Minute, *is syndicated nationally by the U.S.A. Radio Network.*

The Theme Is Freedom: Religion, Politics, and the American Tradition

by M. Stanton Evans

Regnery Publishing • 1994 • 352 pages • $24.00

Reviewed by Gregory P. Pavlik

The sources of the freedoms and form of government that Americans once enjoyed are often a subject of dispute. One side claims that the American republic was the product of

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the Enlightenment and the spirit of the times. The other holds that the break from Britain was essentially a conservative affair provoked by usurpations of liberties by the British crown. Since each thesis is radically at odds with the other in its political implications, the truth of the matter is of the utmost importance.

M. Stanton Evans' new book, *The Theme Is Freedom*, is a popularly written discussion of the elements of British history and culture that contributed to the American Founding. Actually, the book touches on a range of topics that relate directly or indirectly to Mr. Evans' thesis. He argues that not only was the Founding a product of British civilization, it was a product of a specifically medieval heritage, imbued with political notions derived from the history and religion of that era. His case is strong, although the wide-ranging nature of his examination injects a few problematic elements into the text.

The first chapters of the book revolve around a critique of liberalism, which is juxtaposed with a discussion of Christian traditionalism. Evans argues correctly that liberalism, being empty of absolute value content, can never sustain its promises of liberation or freedom. In fact, he suggests that liberalism will ultimately reduce itself to totalitarian tendencies in the absence of a conception of authority beyond the state.

This has been borne out by historical example. The transformation of liberalism toward socialism was fueled by the impetus of its own premises. The classical liberal world view was motivated by belief in an ideology of liberation and based on a theory of atomized individualism. These elements of liberalism necessarily promote an ideology of change. When the end of the liberal program is met, satisfaction cannot be reached for two reasons: the utopian nature of the liberal vision and the perpetual desire for human liberation. Hence, the need to move beyond the capitalist society that formed the original vision of liberalism.

As an alternative, Evans offers a vision of American liberty based on the Anglo-American tradition, rooted in religious axioms. This requires a detailed discussion of medieval law and political structures, the contractual basis of the feudal order, the origins and applications of the common law, British history, the nature of monarchy in Britain, the role of the church in society and politics, theologians' views of the state, and a plethora of other factors. In fact, the book is worth reading for its educational value on these issues alone. Mr. Evans goes far to document the basis of John Adams' claim that "The patriots of this province desire nothing new; they wish only to keep their old privileges."

An important element of this interpretation rests on the issue of contract. Much emphasis in what Mr. Evans calls the "standard treatment" of our history is laid on social contractarian theories of the state that are rooted in liberal and Enlightenment thought. A sizable discussion in *The Theme Is Freedom* revolves around the issue of contract. Mr. Evans points out that the notion of contract between king and subject derives from the practice of the feudal system, that the colonies were bound by charter to the crown, and many of the early religious settlers formed communities based on compact. This raises the question as to the depth of influence of liberal thought on the birth of our nation. The record of history and the written legacy of the men who laid the groundwork for the republic suggests that it was minimal.

Despite the overall strength of the book, Mr. Evans' discussion of the contractarian John Locke is flawed. He spends some time suggesting that Locke's use of social contract theory was not an innovation based on the precedent of the widespread idea of contract. Borrowing from the lexicon of the day, however, does not obscure the radical underpinnings of Locke's theory. Central to understanding this is the recognition that Locke's social contract did not revolve around the relationship between the people and the monarchy through a history of agreement and concession. Instead, Locke was a republican, and his *social* contract was an abstraction agreed to by tacit consent amongst the people. His discussion was wholly theoretical, based on logic and a set of *a priori* assumptions. If this were not the case, Mr. Evans would not have to provide a lengthy discussion salvaging the Declaration of Independence from the influence of Locke.

This is unfortunate because it can only serve to obscure the message of Mr. Evans' work. The multiculturalist assault on the civilization derived from England and the diminution of faith, public and private, can serve only one end: the destruction of our legacy of freedom. □

Mr. Pavlik is director of The Freeman *Op-Ed program at The Foundation for Economic Education.*

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Out of Focus: Network Television and the American Economy

by Burton Yale Pines
(with Timothy W. Lamer)

Regnery Publishing, Inc. • 1994 • 384 pages • $24.00

Reviewed by Raymond J. Keating

On the evening I finished reading *Out of Focus*, ABC television coincidentally ran a program entitled "The Blame Game." I watched in amazement as reporter John Stossel developed a story about the United States becoming a nation of victims. Stossel explored how various government programs, such as welfare, and regulations like the Americans with Disabilities Act, create dependency, generate frivolous lawsuits, and degrade individual responsibility by fostering the notion that we are all, in some way or another, victims.

Through various interviews, Stossel illustrated how a government check for not working creates disincentives for working. He also looked at the costs of more government regulation, including lost jobs.

Unfortunately, the source of my amazement was that this program actually aired on prime-time, network television—not exactly known as a medium tough on government programs and intervention in the economy. Burton Yale Pines' *Out of Focus* confirms what many of us have thought for some time—namely, that television reporting on the economy is riddled with myths and clichés. In a sense, this book helps to explain why I and, I am sure, many others were amazed at ABC's "The Blame Game."

Out of Focus offers the results of a year-long study, conducted in 1992 by the staff of the Free Enterprise and Media Institute, analyzing morning and evening newscasts and magazine shows on ABC, NBC, CBS, and CNN, as well as twelve weeks of prime-time entertainment television. The researchers evaluated the kinds of economic information, signals, and lessons being communicated.

Unsurprisingly Pines offers worrisome findings. While television executives strongly support capitalism and free enterprise in polls, more often than not, a fundamental misunderstanding of how the economy works makes its way onto the television screen.

For example, Pines points out that "the notions that high profits created incentives for risk taking, for savings, and even for hard work were ignored or implicitly slighted by network TV." In highlighting a randomly chosen week (January 25–31, 1992), Pines observes: "At least sixteen of the week's stories dealt directly with the federal government's role in the economy—through taxation, regulation, or spending. Almost every one of these stories took as its premise that when the marketplace created problems only the government had the answer. Rarely were possible nongovernment solutions mentioned."

The author notes that this philosophy held sway throughout 1992. He states: "Regulation has a friend in television. Network reporters seem to believe that government officials and bureaucrats have the information, ability, and tools to regulate economic matters effectively."

Particularly egregious was network reporting on health care. The idea that government was capable of providing cost-efficient, quality health care seemed to be accepted as an economic verity. This misguided notion served as the foundation upon which most health-care television news reports were built. Pines found that "viewers had less chance of seeing a balanced story on health than on taxes, regulations, the environment, or any other economic subject."

However, a glimmer of hope could be found on the reporting front. Pines notes that "viewers watching reports on tax issues, in contrast to those about all other economic topics, had a better than even chance of learning something about how their free enterprise economy functioned and how the tax structure affected it." On April 15, CBS "This Morning" even interviewed Paul Craig Roberts, allowing him to explain how lower marginal tax rates on capital would generate "more investment, higher productivity, while simultaneously shifting the average tax burden from labor to capital."

Perhaps the two most informative chapters in *Out of Focus* identify the ten worst and best news stories on the economy in 1992. These stories were ranked by a panel of free-market economists—Bruce Bartlett, Christopher Frenze, Edward Hudgins, Marvin Kosters, and Stephen Moore. The comments from these individuals cited by Pines provide the reader with sound analysis of where economic reporting was buttressed or undercut by market principles.

Out of Focus also offers a glimpse of how entertainment television treats free enterprise. Pines finds that generally "entertainment TV in 1992 portrayed businessmen and women as unfeeling and cruel bosses and managers, as crim-

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inals or otherwise evil, and as taking advantage of the public."

However, the author does report an unusual exception. A character on the NBC program "Sisters" failed in her attempt at selling cosmetics at Kaffee-Klatsch gatherings. However, she found a market at these events for the self-designed, hand-painted sweatshirt that she was wearing. Pines sees a supply-side message in this episode—supply creating demand.

If supply-side economics can find its way onto a network entertainment program, and John Stossel can address the downside of government intervention in the economy on an ABC magazine show, then all is not lost. By pointing out the current weaknesses, *Out of Focus* provides the first step on the path to improving television news and entertainment treatment of free enterprise and the economy. □

Mr. Keating is chief economist with the Small Business Survival Foundation.

Property Rights

Edited by Ellen Frankel Paul, Fred D. Miller Jr., and Jeffrey Paul

Cambridge University Press • 1994 • 291 pages • $19.95

Reviewed by Tibor R. Machan

Most of us turn to philosophy only when problems arise with using our common sense. For instance, we are seldom troubled about determining what belongs to whom as we go through a normal day in our lives, but there are those occasions when just trusting our customary beliefs won't suffice. I know pretty well that the car parked in my garage, the flower growing in my garden, or the furniture on my porch is mine. But what about the sidewalk in front of my house, the land Indians claim is theirs because their ancestors are buried there, or the portion of earnings declared as tax by officials of the Internal Revenue Service? Are they mine? If not, why not? Then again, in what sense would my arm, my heart, my lungs, my body, even my self be my property, if any? After all, I can speak of my height, my weight, my age, and my hair color and in none of these cases am I talking about items that belong to me. What about my team? My child? Your share in a company's stocks? What about the public park—in what sense is it both yours and mine?

Political theorists have addressed these issues for centuries and they will probably continue to do so for as long as human beings inhabit the universe. Some have blamed all the troubles of the world on the emergence of private property, while others see property rights as the solution to many problems. Others have defended a view of ownership that precludes any reference to rights or wrongs, to matters of justice or virtue, and concerns only who has power to do what—roughly the legal-positivist position. Still others think ownership cannot even be conceived of without considering rightfulness versus wrongfulness—the natural rights approach. And there are always those who want a bit of both—for example, limited ownership rights, limited powers to use and dispose of various goods and services. Finally, there are some who see ownership falling on very hard times when it comes to certain very pressing issues, usually related to the ecosystem (water or air masses) or the intellectual products or creations (inventions, novels, musical arrangements, computer programs, etc.).

In each age some have also argued, more or less successfully, for excluding some types of prospective property on grounds that these do not qualify or meet the proper standards for rightful, valid ownership. Slavery was overthrown, in part, because ownership of blacks was successfully excluded, whereas the argument that cows or chickens cannot be rightfully owned is advanced less successfully in our time by animal rights advocates.

The book before us is invaluable as a contribution to the ongoing debate. Paul, Miller, and Paul have been collecting into separate volumes discussions on various topics in political economy, usually derived from conferences they have held at their increasingly prestigious Social Philosophy and Policy Center at Bowling Green State University in Ohio. This particular product is especially valuable to classical liberal theorists. It presents for them a wide variety of both champions and critics of proper rights. Nearly every position is, if not fully developed and defended, at least touched upon. And in each case there is reasonable thoroughness, with only minor omissions of significant contributions to the debate. (For example, none of the contributors seemed to find the Randian and neo-Randian doctrines worth examination.) Some treatments are a bit too didactic, paying little attention to possible or extant objections. (For example, David Friedman's presentation of the positivist position takes little notice of arguments which

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maintain that his stance is untenable.) Yet in each case the exposition is rich in nuance and very informative, even if incomplete.

Beware, however, for this work is not bedside reading material for those who like their philosophy in a breezy and easy style. Every essay is loaded with complex vocabulary and complex sentence construction. Nonetheless, if one is serious about figuring out how the topic of property rights might be best thought about, what the most sensible approach is to dealing with the ordinary phenomenon of ownership—especially when it confronts hard cases with legal, moral, and historical muddles surrounding property—one must dip into this book. There is a wealth of insight here, providing much food for thought and creative development in the area of property rights theorizing.

The one lapse in this work is a paper by Alan Ryan, whose glib treatment of many theories of ownership, specifically Rothbard's and Nozick's, does not deserve to be included in a serious volume. There is a principle in scholarship that every contributor to a discussion ought to practice conscientiously. It is the principle of charity: giving the strongest representation to the views which one criticizes. Ryan seems not to have heard of that principle. Of course, there are many others who have not, but fortunately in this book no other contributor gets a chance to engage in scholarly malpractice along such uncivil lines.

This book belongs on the shelf of anyone who is serious and disciplined about the study of property rights. Even lay persons will benefit from studying some of the essays—e.g., by Richard Epstein, David Schmidtz, and Gary Lawson—if only by way of the lessons they learn about how complicated problems of political economy can be and how intensely those who want to address them successfully need to work in order to approach some measure of success. After studying these essays, no one will walk away making glib declarations about property rights or, indeed, about political philosophy in general. □

Dr. Machan is Professor of Philosophy at Auburn University, Alabama. He is a contributing editor of The Freeman.

A Nation Under Lawyers: How the Crisis in the Legal Profession Is Transforming American Society
by Mary Ann Glendon
Farrar, Straus, and Giroux • 1994 • 331 pages • $24.00

Recapturing the Constitution: Race, Religion, and Abortion Reconsidered
by Stephen B. Presser
Regnery Publishing, Inc. • 1994 • 397 pages • $24.95

Reviewed by William J. Watkins, Jr.

The second part of the twentieth century has witnessed a marked decline in the rule of law. The legal profession appears to be out of control as society becomes ever more litigious and the guarantees of the Constitution are ignored. What happened to the United States Tocqueville visited where "that numerous and turbulent multitude does not exist who, regarding the law as their natural enemy, look upon it with fear and distrust"? Professor Mary Ann Glendon of the Harvard Law School in her new book, *A Nation Under Lawyers*, does much to answer this vexatious question.

In order to ascertain when and how the rule of law was lost, Glendon looks to the past. She ties the litigiousness and judicial activism of our time to the legal conventions of immigrants. The gentleman's ethic which prevailed at the turn of the century stressed ascendancy of the rule of law even if it meant refusing the wishes of a client. This was replaced with an old-world ethic that placed greater emphasis on the lawyer's loyalty to his client than to the system.

Glendon marks the 1954 school desegregation case, *Brown v. Board of Education*, as the beginning of the present era of judicial activism. From this landmark decision that took the courts into the ordinary affairs of local governments, the "Warren Court children" were born. This generation that entered law school in the late '50s and early '60s no longer saw the law as the collected wisdom of the past that safeguarded our scheme of ordered liberty. On the contrary, they viewed the law as a means to bypass the political process and effect radical social change.

Glendon sees the media as exacerbating the problem by glorifying the judges and lawyers, who through the judicial process, sought to engineer a better world. Judges, in Glendon's

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words, "began to taste the once-forbidden fruit of emancipation from the constraints" posed by the rule of law. Qualities such as impartiality and an adherence to precedent that made a good judge at the beginning of the century gave way to a new set of principles that called for the courts to be the champions of the underdog.

Glendon ends the book on a high note, recounting how today's law students are spurning the utopianism of the Warren Court children for a more traditional legal system. And it is only tradition that Glendon sees as the means to recover the impartiality and restraint that have been lost over the years of radical experimentation.

Though radical experimentation has come from all members of the legal profession, the most damage to the rule of law has been wrought by the Supreme Court through constitutional interpretation. Since FDR's New Deal Court let the genie out of the bottle, scarcely has the law restrained the action of the federal government. This demise of constitutional government is examined in Stephen B. Presser's new book, *Recapturing the Constitution: Race, Religion, and Abortion Reconsidered.*

Rather than appeal to the "original intentions" of the Framers as many conservative members of the academy do, Presser advocates "original understanding." Though at first this sounds like semantic hairsplitting, Presser bases his view of the Constitution cogently around this doctrine. Instead of simply looking at the text of the Constitution, one must look "to the context in which it was drafted." Thus, the attitudes and understanding of the ratifiers are paramount.

For example, the First Amendment's prohibition against the establishment of religion does not erect a great wall between church and state. After giving a fine history of the changes in the wording of the First Amendment as it was being drafted in the first Congress, Presser concludes, as did the legendary Justice Joseph Story, that the amendment was only to "exclude all rivalry among Christian sects. . . ." Insofar as the founding generation was overwhelmingly Christian and recognized the inseparability of religion and morality, they would not have countenanced the Jeffersonian wall of separation.

Rather than stopping with the doctrine of original understanding, Presser goes on to embrace natural law in the form of substantive due process. Substantive due process, in the words of legal historian Kermit L. Hall, means that there exists an irreducible sum of rights with which government cannot interfere. Under substantive due process, the courts struck down much legislation dealing with the regulation of the public's health, welfare, and morals as well as part of the New Deal.

By embracing this doctrine, Presser violates his own principle of original understanding. Rather than recapturing the Constitution, ambiguous doctrines of natural law and substantive due process, despite their salutary results until 1937, give the courts *carte blanche* to make the Constitution mean whatever they want. The acceptance of this doctrine is the only major flaw in the book.

As does Glendon in her book, Presser marks *Brown v. Board of Education* as a watershed event. From this case onward, Presser outlines how the social sciences became more important in adjudication than an understanding of constitutional law. This absence of a traditional understanding of the Constitution naturally results in decisions like *Roe v. Wade.*

Presser concludes that Justice Blackmun's declaring abortion to be a fundamental right in that landmark case caused a deep rift in society that should have been settled through the political process as the Framers intended. Presser sees abortion, like school prayer, as falling within the gamut of state and local authority. The Court's usurpation of legislative authority in matters dealing with race, religion, and abortion have, according to Presser, moved us further away from the rule of law and towards the rule of man.

In short, Presser provides a thought-provoking examination of the perversion of the Constitution that the layman can comprehend. Like Glendon, he sees the restoration of the rule of law resting with tradition. It was, after all, for our traditional rights as Englishmen that the colonists fought. And only a clear understanding of this tradition can restore our republican form of government and the corresponding rule of law. □

Mr. Watkins, an assistant editor for The Freeman, *begins law school this month.*

The Abuse Excuse

by Alan M. Dershowitz

Little, Brown & Company • 1994 • 341 pages • $22.95

Reviewed by David Brown

It would be tough to dispute the thesis of this book, which is that being a victim of abuse hardly entitles one to become an abuser in turn.

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One wonders a little, then, why Alan Dershowitz felt entitled to inflict this collection on the reader. Surely not because he himself has been similarly assaulted by other writers who slapped together editorial collections with only marginal literary or journalistic warrant.

Still, I'm fairly glad this book was published. We do need to be told again and again that we are responsible, really responsible, for our actions. And the author tells us again and again. Take those Menendez brothers, for instance, who sneaked up on their parents and gunned them down so as to precipitate their inheritances. Then in court the boys claimed they were only retaliating against past, or protecting themselves from future child abuse. That horrific instance of the abuse excuse led to hung juries despite the brothers' admission of the killings and the skit-fodder phoniness of their courtroom histrionics.

Skater Tonya Harding was abused by her former boyfriend/husband, ergo her ruthlessness in seeking Olympic Gold was seen as partly pardonable, and definitely plea-bargainable. Observes Dershowitz: "Ordinarily, it is the 'soldiers' or the 'mules' who get favorable plea bargains in exchange for helping to put the boss in prison. Here, the primary beneficiary of the crime—known in advance to her, according to prosecutors—got the best deal."

An inebriated woman driver who tried to kick a police officer in the groin (without provocation), and who later assaulted the breathalyzer, claimed the scourge of premenstrual syndrome as her excuse. She was acquitted. Victory for women—or for the abuse excuse?

Black rage, adopted-child syndrome, battered husband syndrome ("At times I have felt like a battered husband or boyfriend," wrote O.J. Simpson in what was to be his parting epistle), the minister, the Super Bowl, the Holocaust, Twinkies, the wrong self-help book, or the oppressive system made me do it. Dershowitz enumerates excuse after excuse. He seems to waffle, however, about the propriety of jailing Judge Sol Wachtler, the Chief Judge of the New York Court of Appeals convicted of harassing and extorting a former girlfriend, and whose "expansive view of civil liberties I deeply admired."

These pieces, not all of which illustrate the title theme, refresh our memories of stuff we read in the papers at the time and remind us of how commonplace these excuses have become. The most analytical and interesting item is the introduction, which mentions the first excuse ever, something about a serpent. So what's the impetus to all the contemporary abuse-excuse mongering? It's convenient for defendants, for one thing. But if you want to trace it back to philosophic and social theorizing and engineering, better books to read would be FEE's own *Criminal Justice?*, edited by Bob Bidinotto, with its scholarly analyses of criminal behavior and of the "excuse-making industry"; or Charles Sykes' culturally perceptive *Society of Victims*.

Dershowitz, himself a high-profile criminal lawyer of liberal inclination, laments and catalogs the trend, sheds light on the legal angles, rebukes the rebukes of liberal colleagues over these issues, provides a glossary of abuse excuses, and urges the legal system "to confront the issues of responsibility in a rationally calibrated manner that is comprehensible to jurors and citizens. . . . We must stop making excuses and start taking responsibility." At stake, he says, is "the very nature of our experiment with democracy."

Also justice. □

Mr. Brown is a freelance writer.

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